

STATE OF MICHIGAN
IN THE SUPREME COURT

SUSAN REAUME,
Plaintiff-Appellant,

Supreme Court No. 159874

Court of Appeals No. 341654

v

TOWNSHIP OF SPRING LAKE,
Defendant-Appellee.

Ottawa County Circuit Court
No. 17-004964-AA

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STATE OF MICHIGAN
COURT OF APPEALS

SUSAN REAUME,

Plaintiff-Appellant,

v

TOWNSHIP OF SPRING LAKE,

Defendant-Appellee.

FOR PUBLICATION

May 21, 2019

9:05 a.m.

No. 341654

Ottawa Circuit Court

LC No. 17-004964-AA

Before: GLEICHER, P.J., and RONAYNE KRAUSE and O'BRIEN, JJ.

RONAYNE KRAUSE, J.

Plaintiff, Susan Reaume, appeals by leave granted¹ the trial court's order affirming the denial by defendant, the Township of Spring Lake (the Township), of plaintiff's application for a short-term rental license. We affirm.

I. BACKGROUND

In 2003, plaintiff purchased a home (“the property”) located in the Township. The property has at all relevant times been located within the “R-1 Low Density Residential” zoning district. Plaintiff utilized the property as her full-time residence until 2014. In 2015, plaintiff retained a property management company, and an agent of that company made a telephone inquiry to the Township regarding restrictions on short term rentals for the property. According to the agent, a person named Connie Meiste “said that Spring Lake Township had no restrictions on short term or long term rentals.” Plaintiff made substantial improvements to the property, and in 2015 and 2016, she rented it out seasonally as a short-term vacation rental. As will be discussed further, plaintiff contends that Lukas Hill, the Township's Zoning Administrator,²

¹ *Reaume v Spring Lake*, unpublished order of the Court of Appeals, entered June 4, 2018 (Docket No. 341654).

² Apparently, the Township uses the terms “zoning administrator” and “community development director” interchangeably.

“expressly affirmed [plaintiff’s] right to lawfully use [the property] as a short-term rental.” Plaintiff’s neighbors, however, objected to the use of the property for short-term rentals and lodged complaints with the Township.

In December 2016, the Township adopted Ordinance No. 255, which prohibited short-term rentals in the R-1 zone. However, the ordinance allowed long-term rentals of more than 28 days. The ordinance provided that all short-term rentals must be registered and licensed with the community development director before rental activity could occur. The Township also adopted Ordinance No. 257, which amended the Spring Lake Township Zoning Ordinance to allow “short-term rentals” and “limited short-term rentals,” which had independent definitions, in certain zoning districts. Ordinance No. 257 permitted “limited short-term rentals,” but not “short-term rentals,” in R-1 zones. The amendment defined “limited short-term rentals” as “[t]he rental of any Dwelling for any one or two rental periods of up to 14 days, not to exceed 14 days total in a calendar year.”

Plaintiff applied for a short-term rental license, which the Township denied. She appealed that decision to the Township Zoning Board of Appeals (ZBA), which denied her appeal. Plaintiff then appealed that decision in the trial court. Following a hearing, the trial court affirmed the Township’s decision in a written opinion and order. Plaintiff sought leave to appeal in this Court, which was granted.

II. STANDARD OF REVIEW

We review the interpretation of ordinances de novo. *Soupal v Shady View, Inc*, 469 Mich 458, 462; 672 NW2d 171 (2003). Ordinances are interpreted in the same manner as statutes; we must apply clear and unambiguous language as written, and any rules of construction are applied “in order to give effect to the legislative body’s intent.” *Brandon Charter Twp v Tippet*, 241 Mich App 417, 422; 616 NW2d 243 (2000). We also review de novo the application of legal and equitable doctrines. *Estes v Titus*, 481 Mich 573, 578-579; 751 NW2d 493 (2008); *Sylvan Twp v City of Chelsea*, 313 Mich App 305, 315-316; 882 NW2d 545 (2015). It is well established that courts will consider the substance of pleadings and look beyond the names or labels applied by the parties. *Hurtford v Holmes*, 3 Mich 460, 463 (1855); *Norris v Lincoln Park Police Officers*, 292 Mich App 574, 582; 808 NW2d 578 (2011).

“In general, we review de novo a circuit court’s decision in an appeal from a ZBA decision.” *Hughes v Almena*, 284 Mich App 50, 60; 711 NW2d 453 (2009). However, there is no single standard of review applicable to the appeal itself, because zoning cases typically entail questions of both fact and law. *Macenas v Village of Michiana*, 433 Mich 380, 394-395; 446 NW2d 102 (1989). The courts must defer to a ZBA’s factual findings to the extent they are “supported by competent, material, and substantial evidence on the record.” *Id.* at 395. We in turn review the circuit court’s factual findings for, in effect, clear error to determine whether the circuit court properly applied the substantial evidence test. *Hughes*, 284 Mich App at 60. The ZBA’s decisions on the basis of its factual findings are also given deference “provided they are procedurally proper ... and are a reasonable exercise of the board’s discretion.” *Macenas*, 433 Mich at 395. The ZBA’s determinations of law are afforded no deference. *Id.* at 395-396.

III. ESTOPPEL

We observe initially that much of plaintiff's argument is, in substance and effect, an equitable estoppel argument. Equitable estoppel may preclude the enforcement of a zoning ordinance if a party reasonably relies to its prejudice on a representation made by the municipality. *Lyon Charter Twp v Petty*, 317 Mich App 482, 490; 896 NW2d 477 (2016), vacated in part on other grounds by 500 Mich 1010 (2017). Generally, plaintiff contends that prior to the Township's adoption of Ordinance Nos. 255 and 257, it had formally determined and communicated that plaintiff's use of the property for short-term rentals was lawful. Plaintiff therefore concludes that her use of the property is necessarily "grandfathered," and the Township may not deny her permission to continue using her property for short-term rentals. Plaintiff argues that she expended considerable sums of money on renovations and modifications to the property in reliance upon the Township's alleged assurances that short-term rentals were lawful in the R-1 zoning district. However, plaintiff's argument turns on making untenable extrapolations from statements made by individuals who had no authority to bind the Township.

"[A] historical failure to enforce a particular zoning ordinance, standing alone, is insufficient to preclude enforcement in the present." *Lyon*, 317 Mich App at 489. A municipality may, in some cases, be estopped from enforcement "pursuant to the positive acts of municipal officials which induced plaintiff to act in a certain manner, and where plaintiff relied upon the official's actions by incurring a change of position or making expenditures in reliance upon the officials' actions." *Parker v West Bloomfield Twp*, 60 Mich App 583, 591; 231 NW2d 424 (1975); see also *Lyon*, 317 Mich App at 490. The general rule is against estopping municipalities from enforcing zoning ordinances in the absence of "exceptional circumstances," which must be viewed as a whole, and "no factor is in itself decisive." *Pittsfield Twp v Malcolm*, 375 Mich 135, 146-148; 134 NW2d 166 (1965). However, a municipality cannot be estopped by unauthorized or illegal conduct by individual officers. *Parker*, 60 Mich App at 594-595; see also *Blackman Twp v Koller*, 357 Mich 186, 189; 98 NW2d 538 (1959). "Casual private advice offered by township officials does not constitute exceptional circumstances." *Howard Twp Bd of Trustees v Waldo*, 168 Mich App 565, 576; 425 NW2d 180 (1988), citing *White Lake Twp v Amos*, 371 Mich 693, 698-699; 124 NW2d 803 (1963).

Plaintiff's only argument of serious concern pertains to the conversation her property management company's manager, Barbara Hass, had "with Connie Meiste at the Spring Lake Township offices by telephone." According to Hass's affidavit, she was told "that Spring Lake Township had no restrictions on short term or long term rentals." It is reasonable to expect municipal employees to provide accurate information upon request. However, this record does not disclose enough detail about the conversation to draw any conclusions. For example, it appears that the Township did not, in fact, have any formal regulations that specifically addressed rentals of property. Nevertheless, that is not necessarily equivalent to a statement that any kind of rental was explicitly authorized. We do not know precisely what question was asked. It is unclear whether Hass's affidavit repeats a direct quotation from Meiste's answer, or whether the affidavit sets forth Hass's understanding of the gravamen of Meiste's answer. Importantly, the record provides no support for the proposition that Meiste had any authority to bind the Township. Because plaintiff has the burden of proof, we are unimpressed with plaintiff's protestations to the effect that the Township has not *disproved* Meiste's authority or anything about the nature of her statement to Hass.

Plaintiff argues that the Township's Zoning Administrator, Lukas Hill, explicitly approved plaintiff's revised rental listing after obtaining clarification that the property was not being improperly held out as a multi-family dwelling. Again, there is nothing in the record to show that Hill had any individual authority to bind the Township to a zoning determination.³ Furthermore, the record indicates that the Township's enforcement protocol has historically been to address violations as they are reported in the forms of complaints, rather than to affirmatively look for violations. The record does not reflect whether the Township had received any complaints at the time of the original rental listing alleging a violation of the R-1 zoning requirements. Plaintiff extrapolates too much from Hill's satisfaction that plaintiff's revised rental listing complied with the specific prohibition against multi-family dwellings in R-1 zones. The fact that the revised listing did not contravene one restriction is not proof that it did not contravene *any* restrictions. In any event, as noted, failure to enforce a zoning ordinance does not constitute approval of an otherwise illegal use.

Plaintiff also argues that Hill had "determined unequivocally that short-term rentals were lawful under the Spring Lake Township Zoning Ordinance." We have carefully reviewed the documents plaintiff provided in support. One document is a printout of an emailed complaint from one of plaintiff's neighbors regarding plaintiff's rentals, upon which an unidentified person handwrote "Lukas says nothing we can do about it as yet." No explanation has been provided as to why Hill might have made such a statement, and we decline to speculate. Another document, from the Township Supervisor, John Nash, conveyed some advice to neighbors about actions they could take; it again contains no hint of a determination that plaintiff's use of the property was actually lawful. Neither document constitutes a formal determination by the Township, or binding on the Township, that plaintiff's use of the property for short-term rentals was actually lawful. Indeed, neither document appears even to constitute a private opinion that plaintiff's use of the property was lawful. Plaintiff also relies on the fact that the Township had not cited any other short-term rentals, which, again, is not an expression of approval.

In summary, plaintiff mostly relies on seriously mischaracterizing statements made by individuals. We conclude that there is no basis for estopping, formally or substantively, the Township from enforcing its zoning or regulatory ordinances to preclude plaintiff from using the property for short-term rentals.

³ Plaintiff cites *Gordon Sel-Way, Inc v Spence Bros, Inc*, 177 Mich App 116, 124; 440 NW2d 907 (1989), rev'd in part on other grounds 438 Mich 488 (1991), for the proposition that Hill's "interpretation" should be imputed to the Township. Hill does not appear to have rendered an "interpretation." More importantly, the pertinent holding in *Gordon Sel-Way* was that *knowledge* possessed by a corporation's managerial employees may be imputed to the corporation, such that the corporation may not willfully ignore any duties that might arise as a consequence of that knowledge. Here, the Township does not claim ignorance of any of the statements made by its employees and officers, but rather properly challenges their meaning and significance. *Gordon Sel-Way* did not purport to contravene the case law we have discussed above limiting the circumstances under which a municipality's employees or officers could bind the municipality.

IV. LAWFUL NONCONFORMING USE

MCL 125.3208(1) provides that “[i]f the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment.” This is colloquially, often referred to as “grandfathering.” A similar provision was included in Section 335 of the Spring Lake Township Zoning Ordinance, which provides:

Nonconforming Buildings, Structures, Lots, and uses which do not conform to one (1) or more of the provisions or requirements of this Ordinance or any subsequent amendments thereto, but which were lawfully established prior to the adoption of this Ordinance or subsequent amendment, may be continued. However, no such Building, Structure or use shall be enlarged or extended, and no nonconforming Lot created or made more nonconforming, except as provided herein. It is the intent of this Section to reduce or remove the number of nonconforming occurrences in the Township.

“A prior nonconforming use is a vested right in the use of particular property that does not conform to zoning restrictions, but is protected because it lawfully existed before the zoning regulation’s effective date.” *Heath Twp v Sall*, 442 Mich 434, 439; 502 NW2d 627 (1993).

On appeal, plaintiff does not challenge whether Ordinance Nos. 255 and 257 were properly adopted or prohibit short-term rentals in properties zoned R-1. As discussed, we find no merit to plaintiff’s contention that the Township had itself determined plaintiff’s use of her property for short-term rentals to be lawful. Nevertheless, if that use of the property *actually was* lawful prior to the adoption of Ordinances 255 and 257, then plaintiff has a right to continue using her property for short-term rentals. We conclude that it was not lawful prior to the adoption of Ordinances 255 and 257.

Plaintiff argues that her use of the property as a short-term rental was lawful pursuant to the definition of the term “dwelling” in the Spring Lake Township Zoning Ordinance. We disagree. The Spring Lake Township Zoning Ordinance defines “dwelling” under Section 205 as:

Any Building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one (1) or more Families, but not including Motels or tourist rooms. Subject to compliance with the requirements of Section 322, a Mobile Home shall be considered to be a Dwelling.

(1) Dwelling, Single-Family: A Building designed for use and occupancy by one (1) Family only.

(2) Dwelling, Two-Family: A Building designed for use and occupancy by two (2) Families only and having separate living, cooking and eating facilities for each Family.

(3) Dwelling, Multi-Family: A Building designed for use and occupancy by three (3) or more Families and having separate living, cooking and eating facilities for each Family.

The Ordinance does not define “tourist room,” but it defines “motel” under Section 214 as:

A Building or group of Buildings on the same Lot, whether Detached or in connected rows, containing sleeping or Dwelling Units which may or may not be independently accessible from the outside with garage or Parking Space located on the Lot and designed for, or occupied by transient residents. The term shall include any Building or Building groups designated as a Hotel, motor lodge, transient cabins, cabanas, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

Finally, “family” is defined under Section 207 as:

A single individual or individuals, domiciled together whose relationship is of a continuing, non-transient, domestic character and who are cooking and living together as a single, nonprofit housekeeping unit, but not including any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students, or other individuals whose relationship is of a transitory or seasonal nature, or for anticipated limited duration of school terms, or other similar determinable period of time.

We note that R-1, R-2, R-3, and R-4 zones all permit “Dwelling, Single-Family” use, but only in R-4 zones are “Dwelling, Two-Family” and “Dwelling, Multiple-Family” uses permitted. The described “intent” of R-4 zoning notes that such zoning “is dispersed throughout the Township to avoid pockets of rental or transient housing.”

Read as a whole, the definition of “Dwelling, Single-Family” unambiguously excludes transient or temporary rental occupation. Plaintiff focuses on the word “temporarily” in the overview definition of “Dwelling.” Plaintiff fails to note that although *some* kinds of dwellings permit temporary occupancy, *single-family* dwellings do not. The definition of single-family dwelling emphasizes one family *only*, and “family” expressly excludes “transitory or seasonal” or otherwise temporary relationships. Notwithstanding the possibility of some temporary occupancy, *any* kind of “dwelling” excludes a “motel.” “Motels” expressly provide transient lodging, or “tourist rooms,” which are undefined but reasonably understood as also referring to transient lodging. Plaintiff’s use of her property for short-term rentals seemingly fits the definition of a “motel.” Finally, it is notable to contrast the descriptions of the R-1 through R-3 zones with the description of R-4 zoning, which suggests that some kind of temporary occupancy might be permitted in two-family or multiple-family dwellings. The Ordinance clearly forbids short-term rental uses of property in R-1 zones, irrespective of whether the Ordinance does so in those exact words.

As plaintiff notes, there was never any serious dispute that she actually was using the property for short-term rental purposes. However, doing so was not permitted in the R-1 district

at any time. Therefore, plaintiff is not entitled to continue doing so as a prior nonconforming use, notwithstanding the Township's failure to enforce its zoning requirements.

V. PUBLICATION

Unpublished opinions of this Court have no precedential effect under either stare decisis, MCR 7.215(C)(1), or under the "first-out rule," MCR 7.215(J)(1). Our Court Rules set forth a list of standards for publication in MCR 7.215(B). We note that the Court Rule does not state that an opinion may not be published for other reasons, only that it "must be published if" any of the enumerated conditions are present. A party may request publication after an opinion has been issued pursuant to MCR 7.215(D). However, we remind the bar that if they believe any basis for publication exists, it is enormously more helpful—to us and to them—if they bring that basis to our attention *before* the case is submitted. Advocating for publication, or at least the possibility of publication, from the outset guarantees that we can properly consider any such basis at the most appropriate and optimal time, and doing so also avoids the taint of self-interested opportunism after issuance. We would likely look more favorably upon a publication request where we have already had the opportunity to holistically analyze the potential merits of publication in context, while analyzing the rest of the case.

In this matter, plaintiff has brought to our attention the unpublished case of *Concerned Property Owners of Garfield Twp, Inc v Charter Twp of Garfield*, unpublished per curiam opinion of the Court of Appeals, Docket No. 342831 (issued October 25, 2018). This case is unpublished, and we have not relied upon it in our substantive analysis. However, the existence of this case supports that the issues presented in the current matter are of increasing importance and commonality in Michigan, and that the bench and bar would benefit from the certainty that a published opinion would bring. We conclude that publication of this matter is warranted under MCR 7.215(B)(5).

VI. CONCLUSION

Plaintiff's use of the property for short-term rentals was never permitted under the Township's R-1 zoning. This is consistent with case law establishing that commercial or business uses of property, generally meaning uses intended to generate a profit, are inconsistent with residential uses of property. See *Terrien v Zwit*, 467 Mich 56, 61-65; 648 NW2d 602 (2002). Plaintiff's use of the property for short-term rental was not a prior nonconforming use because it was never lawful pursuant to the Ordinance. The Township's mere failure to enforce the Ordinance does not confer upon plaintiff a right to continue violating the ordinance. Neither does a statement made by any individual without the power to bind the Township, especially where none of the statements clearly express an opinion that short-term rentals in R-1 zones was affirmatively lawful. Accordingly, the trial court properly affirmed the Township Board's denial of plaintiff's application for a short-term rental license.

Affirmed. Defendant, being the prevailing party, may tax costs. MCR 7.219(A).

/s/ Amy Ronayne Krause
/s/ Elizabeth L. Gleicher
/s/ Colleen A. O'Brien

STATE OF MICHIGAN

IN THE 20th CIRCUIT COURT FOR THE COUNTY OF OTTAWA414 Washington Avenue
Grand Haven, Michigan 49417
(616) 846-8320
* * * * ***SUSAN REAUME,**
Appellant,**OPINION AND ORDER**

v

File No. 17-4964-AA

SPRING LAKE TOWNSHIP,
Appellee.

Hon. Jon A. Van Allsburg

This is an appeal from a decision of the township board of the appellee, Spring Lake Township (Board), denying appellant Susan Reaume's application for a license under the Township's short-term rental regulations ordinance.¹ Appellant owns a home on the Spring Lake waterfront in an R-1 district in which she lived until 2014. The record reflects that she began renting the home on a short-term basis on June 9, 2015 and has advertised the home for that purpose with Capstone Property Management and on HomeAway.com.

Spring Lake Township adopted ordinance 255 on February 6, 2017 and ordinance 257 on April 8, 2017. Ordinance 255 provides, in pertinent part: "In the R-1 district, no Short Term Rentals are permitted."² Only Rental periods of 28 days or more are permitted." Ordinance 257 provides, in pertinent part: "Section 407.B of the [Spring Lake Township] Zoning Ordinance shall be amended to include the following permitted use . . . Limited Short-Term Rental."³ Following the adoption of the ordinances, Ms. Reaume applied for a short-term rental license on March 2, 2017, and was denied April 4, 2017. The Board affirmed this denial at a hearing held April 10, 2017. A Claim of Appeal was filed on May 26, 2017. The court heard oral arguments

¹ Spring Lake Township Code of Ordinances, Chapter 6, Article V (ordinance No. 255).

² Ordinance 255 defines "Short-Term Rental" to mean " . . . the Rental . . . of any Dwelling for a term of 27 days or less"

³ Ordinance 255 defines "Limited Short-Term Rental" to mean " . . . the Rental of any Dwelling for any one or two Rental periods of up to 14 days, not to exceed 14 days total in a calendar year."



from the parties on October 2, 2017. For the reasons stated below, the court affirms the denial of Appellant's application for short-term rental license.

Appellant asserts that the short-term rental of residential property was a lawful use of property in the R-1 district in which her property is located prior to the adoption of local ordinances 255 and 257, that she was engaged in the short-term rental of her property prior to the adoption of those ordinances, and that the continued use of her property for short-term rentals is a lawful and non-conforming use of her property, despite the township's denial of her application for a short-term rental license under the new ordinance. She further appeals the Board's denial of her application for a license as unauthorized by law, and not supported by competent, material and substantial evidence on the record.

The appellee township asserts that the Board's decision to deny her a rental license for a short-term rental was authorized by law and supported by competent, material and substantial evidence on the record. The township further disagrees that appellant's use of her property for short-term rental constitutes a valid, nonconforming use, as such use did not lawfully exist prior to the zoning ordinance. Finally, the township argues that any challenges to the validity of the township's Ordinance 255 are not properly before the court.

Appellate Jurisdiction

The threshold question is whether the circuit court has appellate jurisdiction to consider this appeal. The Michigan Constitution sets forth the appellate jurisdiction of the circuit court. Const 1963, Article 6, § 13 provides:

"Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; *appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law*; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court." (emphasis added).

The statutory jurisdiction of the circuit court, found in MCL 600.601 provides, in pertinent part: "Circuit courts have the power and jurisdiction (1) possessed by courts of record at the common law, as altered by the constitution and laws of this state and the rules of the

supreme court” MCL 600.631 more narrowly describes the appellate jurisdiction of the court and provides, in pertinent part: “An appeal shall lie from any . . . decision . . . of any state board, commission, or agency, authorized under the laws of this state to promulgate rules from which an appeal . . . has not otherwise been provided for by law, to the circuit court of the county of which the appellant is a resident” However, by express provision this statute applies to *state* agencies, and impliedly excludes application of this section to *municipal* agencies. *Villa v Civil Service Commission*, 57 Mich App 754; 226 NW2d 718 (1975).

The legal basis for the circuit court’s exercise of appellate jurisdiction in this matter is found in Const 1963, art 6, § 28. This section of our state constitution provides, in pertinent part:

“All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law....”

The Michigan Supreme Court has adopted a court rule, MCR 7.103(A), describing the appellate jurisdiction of the circuit court, in relevant part, as follows:

“(A) Appeal of Right. The circuit court has jurisdiction of an appeal of right filed by an aggrieved party from the following:
 (1) a final judgment or final order of a district or municipal court . . . ;
 (2) a final order of a probate court . . . ;
 (3) a final order or decision of an agency governed by the Administrative Procedures Act, MCL 24.201 *et seq*; and
 (4) a final order or decision of an agency from which an appeal of right to the circuit court is provided by law.”

Art. 6, § 28 of the Michigan Constitution and MCR 7.103(A)(4) provide the basis for the court’s appellate jurisdiction in this case. The Board’s decision was a final decision which was quasi-judicial in nature and affected Appellant’s private license and property rights.

Under Michigan law, a township is “a body corporate with powers and immunities provided by law.” Const 1963, art 7, § 17. See also MCL 41.2 and *Sylvan Twp v City of Chelsea*, 313 Mich App 305, 329; 882 NW2d 545 (2015). A township is a municipal corporation and, as such, is an instrumentality of the state for purposes of local government. MCL 41.2; *City of*

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Roosevelt Park v Norton Twp, 330 Mich 270, 273; 47 NW2d 605 (1951). Like other municipal corporations, townships are “. . . created by popular elections.” *Metropolitan Police Board v Board of Auditors of Wayne County*, 68 Mich 576, 579; 36 NW2d 743 (1888). “Under our Constitution each township is a separate municipality, whose officers are elected by town residents, and who are themselves residents.” *Drain Commissioner v Baxter*, 57 Mich 127, 129; 23 NW 711 (1885). The Michigan Constitution further states that “The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor.” Const 1963, art 7, § 34.

The constitution states that townships are led by township boards. “In each organized township there shall be . . . a supervisor, a clerk, a treasurer, and not to exceed four trustees” Const 1963, art 7, § 18. “The supervisor, 2 trustees, the township treasurer, and the township clerk constitute the township board” MCL 41.70. A township board has legislative and administrative powers and duties as provided by law. Const 1963, art 7, § 18. A municipality's power to adopt ordinances related to municipal concerns is “subject to the constitution and law.” Const. 1963, art. 7, § 22.

In *Rental Property Owners Ass'n of Kent County v City of Grand Rapids*, 455 Mich 246; 566 NW2d 514 (1997), the Michigan Supreme Court stated:

“Municipal government in Michigan typically has not been divided among three branches of government.... This Court has recognized that the legislative bodies of local governments may also exercise executive powers. *Wayne Co Jail Inmates v Wayne Co Sheriff*, 391 Mich 359, 216 NW2d 910 (1974). Further, this Court has recognized that the legislative bodies of municipalities can operate as administrative tribunals. *Bundo v Walled Lake*, 395 Mich 679, 696-697, 238 NW2d 154 (1976).” *Id.* at 267-268 (footnote omitted).⁴

The term “quasi-judicial” is not defined in the constitution, and has been broadly interpreted. In *Midland Cogeneration Venture Limited Partnership v Naftaly*, 489 Mich 83; 803 NW2d 674 (2011), the Michigan Supreme Court stated:

⁴ The footnote referenced a treatise on municipal law in Michigan stating, in pertinent part: “The neat concept of separation of powers among the three branches of government is often found wanting when one analyzes Michigan municipalities.... Thus the day-to-day functioning of municipal governing bodies defies the traditional rule of separation of powers; one observes such bodies regularly mixing legislative policy-making with executive or administrative functions.”

“This Court has employed the term “quasi-judicial” broadly: ‘When the power is conferred by statute ... to ascertain facts and make orders founded thereon, they are at times referred to as *quasi-judicial* bodies....’ The Court of Appeals has referred to Black’s Law Dictionary to define ‘quasi-judicial’:

‘A term applied to the action, discretion, etc., of public administrative officers, who are required to investigate facts, or ascertain the existence of facts, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature.’” *Id.* at 91-92 (footnotes omitted).

In the present appeal, section 6-109(c) of ordinance 255 provides, in pertinent part: “If the township board affirms the decision of the Community Development Director denying an application [for a short-term rental license] . . . the Owner [of the property for which the license is sought] shall have the right to appeal the township board decision to the circuit court.” The ordinance properly acknowledges the constitutional authority of the circuit court to review its decisions. The parties have not disputed whether the decision of the Board was a quasi-judicial act which affected Appellant’s private rights or licenses, and the court finds that it was just such an act, and that it did affect Appellant’s rights.

Standard of Review

In *Carleton Sportsman’s Club v Exeter Twp*, 217 Mich App 195, 203; 550 NW2d 867 (1996), the Michigan Supreme Court held that “the circuit court was required to review the record and decision of the township board for competent, material, and substantial evidence in support of the decision and to determine if it was authorized by law.” In *Rental Property Owners*, 455 Mich at 269, the Supreme Court stated that Art. 6, § 28 “... provides the *minimum* standard of review for appeals from quasi-judicial final decisions, findings, rulings, and orders that affect private rights.” (emphasis in original) [citing *Carleton* and *Lorland Civic Ass’n v DiMatteo*, 10 Mich App 129, 135-136, 157 NW2d 1 (1968)].

Analysis

I. The decision of the Township Board to deny Appellant’s short-term rental license under ordinance 255 was authorized by law and was supported by competent, material, and substantial evidence on the record.

The Board’s decision was authorized by law, specifically, by ordinance 255. There were no procedural or substantive irregularities in the manner in which the Board adopted ordinance

255. Ordinance 255 clearly and expressly prohibits the short-term rental of dwellings located in an R-1 zone. There is no dispute that Appellant's property is located in an R-1 zone. Appellant's application for a short-term rental license was lawfully denied by the Board

The Board's decision was supported by competent, material, and substantial evidence on the record.⁵ Exhibit A to the minutes of the Board's meeting of April 10, 2017, adopted by the Board by resolution dated May 8, 2017, provides ample evidentiary support for the Board's decision to deny Appellant a short-term rental license.

II. Appellant's use of her property as a short-term rental lawfully did not exist prior to the adoption of ordinance 255 and is not a valid nonconforming use.

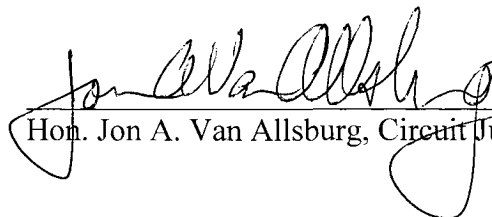
Section 407B of the Spring Lake Township Zoning Ordinance lists the "Permitted Uses" and the "Special Land Uses" that are allowed in an R-1 district. Conspicuously absent from either list is the term "short-term rental." Oral or written representations by Township officials to the Appellant to the contrary are unavailing. Such officials have no power to alter or amend the express provisions of the Spring Lake Township Zoning Ordinance. Moreover, legal advice offered by public officials to citizens who are potential litigants is not binding on the public body that employs said officials. *Wigfall v City of Detroit*, ___ Mich App __; ___ NW2d ___ (Docket No. 333448, Oct. 10, 2017) (2017 WL 4518705). The fact that such legal advice is incorrect, inapplicable, or misinterpreted is irrelevant. *Id.*

Conclusion

The decision of Appellee Spring Lake Township Board denying Appellant Susan Reaume a short-term rental license is AFFIRMED.

IT IS SO ORDERED.

Dated: November 30, 2017


Hon. Jon A. Van Allsburg, Circuit Judge

⁵ "Competent" evidence is admissible evidence, "material" evidence is relevant evidence, and substantial evidence is evidence, "more than a mere scintilla but less than a preponderance of the evidence," "which a reasonable mind would accept as adequate to support a decision." *McBride v Pontiac Sch Dist*, 218 Mich App 113, 123; 553 NW2d 646 (1996). Whether the court agrees with the decision is not relevant; the record is adequate to support it.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OTTAWA

SUSAN REAUME,

CASE NO.: 17-4964-AA

Appellant,

HON.: JON A. VAN ALLSBURG

v.

RECORD ON APPEAL and
TABLE OF CONTENTS

TOWNSHIP OF SPRING LAKE,

Appellee.

EDWARD A. GRAFTON (P29120)

RONALD A. BULTJE (P29851)

Attorney for Appellant

CRYSTAL J. BULTJE (P80276)

113 W. Savidge Ste. A,

SCHOLTEN FANT

P.O. Box 491

Attorneys for Appellee

Spring Lake, MI 49456

100 North Third Street, P.O. Box 454

616-84207300

Grand Haven, MI 49417-0454

Telephone: (616) 842-3030

RECORD ON APPEAL

NOW COMES Appellee Township of Spring Lake, by and through its attorneys, Scholten Fant, and submits this Record on Appeal. Pursuant to MCR 7.122(E)(1), this record includes a copy certified by the Township of the application, all documents and materials submitted by any person or entity with respect to the application, the minutes of all proceedings, and the Township's determination.

No.	Date	Document Description	No. of Pages
1	03/02/2017	Short-Term Rental Registration Application	8
2	03/10/2017	Short-Term Rental Registration Denial	2
3	03/15/2017	Letter re: Reaume Short-Term Rental License Request	1
4	04/07/2017	Appeal of Reaume Short-Term Rental License Denial	21
5	04/10/2017	Township Board Meeting Minutes	2



"17004964AA"

No.	Date	Document Description	No. of Pages
6	04/10/2017	Township Board Meeting Transcript	19
7	05/08/2017	Township Board Meeting Minutes	3
8	05/08/2017	Township Board Meeting Transcript	4
9	05/08/2017	Township Board Resolution and Report	9
10	05/26/2017	Letter re: Reaume v Spring Lake Township	1

Respectfully Submitted,

SCHOLTEN FANT

Dated: June 22, 2017

By:


Ronald A. Bultje (P29851)

Crystal J. Bultje (P80276)

Attorneys for Appellee, Spring Lake Twp.

100 North Third, P.O. Box 454

Grand Haven, MI 49417-0454

(616) 842-3030



March 2, 2017

Community Development Department
Spring Lake Township
101 S Buchanan Street
Spring Lake, MI 49456

HAND DELIVERED

Re: Short Term Rental Application
18190 Lovell Road

Dear Ladies/Gentlemen,

Enclosed please find the Short Term Rental Registration Form for the home at 18190 Lovell Road. That property is owned by our client, Susan Reaume.

Mrs. Reaume expects to receive a license for the standard two week Limited Short Term Rental period, and a license for Short Term Rentals to cover the entire year.

Also enclosed is a check for \$25 to pay the application fee.

Sincerely,

A handwritten signature in black ink, appearing to be "Edward A. Grafton", written over a large, stylized circular flourish.

Edward A. Grafton
Edward A. Grafton PLC

EAG/gm

Enclosure

CC: Susan Reaume

SHORT TERM RENTAL REGISTRATION FORM

**SPRING LAKE TOWNSHIP
COMMUNITY DEVELOPMENT DEPARTMENT
101 S. BUCHANAN STREET, SPRING LAKE, MICHIGAN 49456**

Please complete one application for each rental unit.

Rental Dwelling Unit Address: 18190 Lovell Rd., Spring Lake, MI 49456

Zoning District: R-1, See Appendix A

Property Owner: Susan Reaume

Owner's Address: 16966 Birchview Dr., Nunica, MI 49448

Owner's Phone: 616-638-5608

Owner's E-mail: susanlreaume@gmail.com

Number of dwelling units on the property: 1

Number of bedrooms: 7

Maximum number of occupants permitted: 12 per the ordinance, See App. A

(Building department staff is available to assist with this calculation. NOTE: There is a maximum of 12 people for any short term rental in Spring Lake Township)

Length of typical anticipated rental period per reservation: 7 days.

Number of off-street parking spaces available on the property: 10

A contact person is required if the above identified owner is not capable of being physically present at the dwelling within 3 hours (to address any issues).

Agent's Name (If other than owner): Julie Tardani, Unsalted Vacations

Contact person's Phone: D 616-847-1031; N/Wkend 231-557-7584

Contact person's Address: 300 Washington Ste 110, GH, MI 49417

Contact person's E-mail: julie@unsaltedvacations.com

AFFIDAVIT

The signer(s) of this form does hereby state, warrant, certify and affirm the following:

- 1) All of the information on the attached registration form is accurate.
- 2) The property owner and/or property manager has read and agrees to comply with the Spring Lake Township Short Term Rental Ordinance.
- 3) Properties within 500 feet of the dwelling have been notified that the subject property is a short term rental and contact information has been provided to the owner of said properties.
- 4) Home is in safe condition and in compliance with the 2015 Property Maintenance Code, as applicable.
- 5) All rooms have operational smoke detectors.

OWNER'S SIGNATURE: _____

DATE: 3-2-2017

FEE: \$25.00

By signing above, the owner/agent of the dwelling unit certifies that the above statements are true. Statements found to be falsified on this application and affidavit will be grounds to revoke the rental permit.

NOTICE: The issuance of a certificate of registration shall in no way impact the zoning of the subject property, and shall not prevent the Township from enforcing Zoning Ordinance regulations and limitations on said property, or any other applicable code of the Township.

For Office Use Only

Date Application Filed: _____

Application Fee Amount: _____ Date Paid: _____

Property Inspection Date: _____ By: _____

Zoning District: _____

Approved By: _____ Date: _____

APPENDIX A

Susan Reaume, Owner of parcel 70-03-10-226-009, the property commonly known as 18190 Lovell Road, Spring Lake, MI 49456, submits her application for a license to rent that property as a Short Term Rental and a Limited Short Term Rental, pursuant to the Spring Lake Township Short Term Rental Ordinance. Owner is entitled to a license for the following reasons:

**A. SHORT TERM RENTAL ACTIVITY AT 18190 LOVELL ROAD IS A
"GRANDFATHERED" NONCONFORMING USE.**

1. The Spring Lake Township Short Term Rental Ordinance is a Zoning Ordinance, as defined by the Michigan Supreme Court¹ and renting rooms and buildings is a land use, according to the Spring Lake Township Short Term Rental Ordinance.²
2. Since it is a Zoning Ordinance, Mrs. Reaume has the right to continue using her property as she has since prior to the enactment of the Spring Lake Short Term Rental Ordinance, pursuant to the SLT Zoning Ord. Sec. 335.³
3. The use of the property as a single-unit short term rental was legal at the time that the Short Term Rental Ordinance was enacted. It was used as single family Dwelling as defined by the SLT Zoning Ordinance, because it was a temporary residence that was always designed to be occupied by a single family.⁴
4. Prior to commencing short term rental activity at 18190 Lovell Rd., the owner obtained approval for such activity from Spring Lake Township Staff.

¹ A Zoning Ordinance is defined as "an ordinance which regulates the use of land and buildings according to districts, areas, or locations." *Square Lake Hills Condominium Ass'n v. Bloomfield Township*, 437 Mich. 310; 471 N.W.2d 321 (1991) 8 McQuillin, Municipal Corporations, § 25.53, p 137.

² "A Dwelling that is issued a License under this article may be Rented ..." SLT Ord. Sec. 6-107. The Ordinance specifically addresses how the property may be used.

³ "Nonconforming Buildings, Structures, Lots, and uses which do not conform to one (1) or more of the provisions or requirements of this Ordinance or any subsequent amendments thereto, but which were lawfully established prior to the adoption of this Ordinance or subsequent amendment, may be continued." SLT Zoning Ordinance Sec. 335.

⁴ "Dwelling: Any Building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one (1) or more Families, but not including Motels or tourist rooms. Subject to compliance with the requirements of Section 322, a Mobile Home shall be considered to be a Dwelling.

(1) Dwelling, Single-Family: A Building designed for use and occupancy by one (1) Family only. ..." SLT Zoning Ord. Sec. 9-205

B. SHORT TERM RENTAL ACTIVITY AT 18190 LOVELL ROAD IS AN ALLOWED USE BECAUSE THE SHORT TERM RENTAL ORDINANCE WAS NOT PROPERLY ENACTED.

1. As a Zoning Ordinance, the Spring Lake Township Short Term Rental Ordinance should have been adopted and made effective pursuant to the requirements of the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*
2. The township board did not adhere to the notice and adoption requirements of the Michigan Zoning Enabling Act.
3. The Spring Lake Township Short Term Rental Ordinance is therefore unenforceable.

C. SHORT TERM RENTAL ACTIVITY AT 18190 LOVELL ROAD IS AN ALLOWED USE BECAUSE THE SHORT TERM RENTAL ORDINANCE IS UNCONSTITUTIONALLY VAGUE.

1. The SLT Short Term Rental Ordinance is unconstitutionally vague because under the Ordinance, SLT has unlimited discretion to determine who to cite for violation of the Ordinance. No uniform procedure is in place to insure compliance by Owners in R1 and R2 districts.
2. The Ordinance is being haphazardly enforced based on random complaints made by persons who may not even be SLT residents.

D. SHORT TERM RENTAL ACTIVITY AT 18190 LOVELL ROAD IS AN ALLOWED USE BECAUSE THE SHORT TERM RENTAL ORDINANCE FAILS TO PROVIDE EQUAL PROTECTION OF THE LAW.

1. The SLT Short Term Rental Ordinance denies equal protection of the law because the Ordinance purports to make the privileges that come with occupying a house in R1 and R2 arbitrarily different for Owners and for renters.
2. Under the Ordinance, an Owner is able to house and entertain an unlimited number of non-paying guests, as often as the Owner likes, without regulation. By comparison, under the Ordinance a renter is not allowed to entertain guests for less than a month at a time, and even then only under regulated circumstances.

E. DENIAL OF SHORT TERM RENTAL ACTIVITY AT 18190 LOVELL ROAD CONSTITUTES A TAKING WITHOUT JUST COMPENSATION.

1. Short Term Rental activity at 18190 Lovell Road was commenced with the blessing of SLT staff over two years ago and continued through the 2015 and 2016 rental seasons.
2. The Owner of 18190 Lovell Road made substantial investment in the property in reliance upon the understanding that Short Term Rental activity was allowed.

3. Enforcement of the Ordinance so as to prohibit Short Term Rental activity at 18190 Lovell Road will constitute confiscation of the Owner's investment-backed rental opportunities.
4. Unless SLT reimburses Owner for that loss, an unconstitutional taking will occur. The Ordinance must not be enforced if the result is a taking without just compensation.

March 2, 2017

Dear Neighbor,

This letter is a notice, pursuant to Section 6-105(e) of the Spring Lake Township Short Term Rental Ordinance, that the owner of the property located at 18190 Lovell Rd., Spring Lake, MI 49456 intends to use that property as a Short Term Rental and/or a Limited Short Term Rental, as those terms are defined by the Ordinance.

You are receiving this notice because you are a neighbor within 500 feet of the boundaries of the parcel commonly known as 18190 Lovell Rd.

Pursuant to the Spring Lake Township Short Term Rental Ordinance, the owner of the property is required to also notify you of the contact person for the rental property. For any issues or concerns regarding the rental property at 18190 Lovell Rd., please contact:

Julie Tardani
Unsalted Vacations
Daytime Phone: 616-847-1031
Night and Weekend Phone: 231-557-7584
300 Washington Ave. Ste. 110
Grand Haven, MI 49417
Julie@unsaltedvacations.com

Thank you,

The Owner of 18190 Lovell Rd.

O/jll

David L. and Cindy A. Fox
16165 Terrace Rd.
Spring Lake, MI 49456

Anton Jr. and Amanda Schuster
16151 Terrace Rd.
Spring Lake, MI 49456

David A. Jr. and Kelly A. Flynn
16141 Terrace Rd.
Spring Lake, MI 49456

Halsey Trust Fund A-B
16133 Terrace Rd.
Spring Lake, MI 49456

Gerald and Debra Johnston
16170 Terrace Rd.
Spring Lake, MI 49456

Ralph E. Behm Trust
16156 Terrace Rd.
Spring Lake, MI 49456

Leslie Lukens
16138 Terrace Rd.
Spring Lake, MI 49456

Thomas and Molly Muthalaly
16120 Terrace Rd.
Spring Lake, MI 49456

Steven and Penny Annese
16109 Terrace Rd.
Spring Lake, MI 49456

Dan A. and Mary L. Fox
16123 Terrace Rd.
Spring Lake, MI 49456

Martin F. and Carol L. Payne
18199 Lovell Rd.
Spring Lake, MI 49456

Robert and Eileen Grunstra
18093 Terrace Rd.
Spring Lake, MI 49456

McLaughlin Family Trust
18210 Lovell Rd.
Spring Lake, MI 49456

Montgomery and Lucy Welch Trust
18168 Lovell Rd.
Spring Lake, MI 49456

Brent D. and Corinne T. Willis
18158 Lovell Rd.
Spring Lake, MI 49456

Larry D. and Barbara B. Hartliep
18136 Lovell Rd.
Spring Lake, MI 49456

Pitcher Gerald 2012 Generation
Trust
13192 Marsh Dr.
Gowen, MI 49326

Dan Jr. and Nancy Bylenga Trust
18148 Lovell Rd.
Spring Lake, MI 49456

Mark G. and Donna M. Schroeder
18159 Lovell Rd.
Spring Lake, MI 49456

Spring Lake Township
101 S. Buchanan
Spring Lake, MI 49456

Kenneth and Margarita McWilliams
18127 Lovell Rd.
Spring Lake, MI 49456

James W. and Kerry L. Lawler
18336 West Spring Lake Rd.
Spring Lake, MI 49456

James E. Teitsma Trust
Mary A. Teitsma Trust
18338 West Spring Lake Rd.
Spring Lake, MI 49456

Adam L. Boese
Amalia H. Ziegler
18282 Kristina Ct.
Spring Lake, MI 49456

Robert J. Derck II
18274 Kristina Ct.
Spring Lake, MI 49456

March 10, 2017

Mr. Edward Grafton
Mill Point Legal Services
113 W. Savidge, Suite A
P.O. Box 491
Spring Lake, MI 49456



Re: Susan Reaume Short-Term Rental Permit Request

Dear Mr. Grafton:

This is in response to your correspondence, dated March 2, 2017, requesting a Short-Term Rental Permit and a Limited Short-Term Rental Permit for your client, Susan Reaume, for her dwelling at 18190 Lovell Road (the "Property") in Spring Lake Township (the "Township"). Please be advised that, pursuant to Article V of Chapter 6, Short-Term Rental Regulations (the "Ordinance"), of the Spring Lake Township Code of Ordinances, a permit for limited short-term rentals is not required.

In addition, the request for a Short-Term Rental Permit is denied. Under the Ordinance, the Property is located in a district in which short-term rentals are not allowed to operate. As to the additional arguments raised in your March 2, 2017 correspondence, the Township offers the following.

A. The Property's short-term rental activity is not a "grandfathered" nonconforming use.

Even if the Ordinance were a zoning ordinance, the short-term rental activity on the Property would still not qualify as grandfathered under the Spring Lake Township Zoning Ordinance (the "Zoning Ordinance"), because it was never allowed in the Township in the first place. The Township understands your argument that the term "temporary" within the Zoning Ordinance's general definition of "Dwelling" supports your proposition that dwellings may be rented on a short-term basis without losing their residential character. However, the Zoning Ordinance's general definition of "Dwelling," and the descriptions included therein, do not necessarily apply to all subcategories listed. As such, the term "temporary" does not apply to, nor are short-term rentals allowed for, single-family dwellings-the most restrictive form of a dwelling. This interpretation is consistent with State law on the matter. See *Laketon Tp v Advanse, Inc*, 485 Mich 933; 773 NW2d 903 (2009).

B. The Ordinance was properly adopted.

The Ordinance regulates activity, as opposed to land usage, and as such, it was properly enacted as a police-power ordinance. Unlike aspects of land regulation such as setbacks, parcel size, building height, etc., which must be addressed through zoning ordinances, regulations addressing activities that occur on land may be adopted by police-power ordinance. As such, the



Mr. Edward Grafton
March 10, 2017
Page 2

Township has the authority to adopt the Ordinance for the public health, safety, and welfare. See *Square Lake Hills Condo Ass'n v Bloomfield Tp*, 437 Mich 310, 325; 471 NW2d 321 (1991).

C. The Ordinance is not unconstitutionally vague.

The Ordinance provides a set of standards and violation considerations. An ordinance may be vague if it "encourages" arbitrary and discriminatory enforcement. *People v Lino*, 447 Mich 567, 576; 527 NW2d 434 (1994). The absence in the Ordinance of a process by which violators will be found is, by no means, an "encouragement" of arbitrary and discriminatory enforcement.

D. The Ordinance does not violate equal protection.

A violation of equal protection is found when members who are equally situated are treated differently. See *City of Cleburne v Cleburne Living Ctr, Inc*, 473 US 432, 439; 105 S Ct 3249 (1985). Not only are renters and homeowners *not* similarly situated, but the Township's decision to classify and treat them differently is also allowable. As there is no protected class or fundamental right involved in this situation, the Township's actions simply must pass the rational basis test. *Barrow v City of Detroit Election Comm'n*, 301 Mich App 404, 419-20; 836 NW2d 498 (2013). The Ordinance passes this test.

E. The Ordinance does not authorize a taking of anyone's land.

The Property, and any other parcels impacted by the Ordinance, still have plenty of economic uses available to them. As such, the Township has not deprived the Property of value to the extent necessary to justify a regulatory taking. See *Grand/Sakwa of Northfield, LLC v Northfield Tp*, 304 Mich App 137, 154; 851 NW2d 574 (2014).

For the reasons stated above, your application fee is being returned to you, and the request for a Short-Term Rental Permit is denied.

Sincerely,

SPRING LAKE TOWNSHIP



H. Carolyn Boersma

HCB/

Enclosure

cc: Mr. Ronald A. Bultje, Scholten Fant
SLT 1580 Ltr 03102017 Grafton re Reaume Short-Term Rental Permit Request



March 15, 2017

Spring Lake Township
Attn: H. Carolyn Boersma
101 S Buchanan
Spring Lake, MI 49456

HAND DELIVERED

Re: Reaume Short Term Rental License Request
18190 Lovell Road

Dear Ms. Boersma,

This will confirm that your letter to me dated 3-10-17 was hand delivered to my office yesterday afternoon. My client and I are treating that letter as a denial of her license request by the Community Development Director.

My clients wish to pursue their right of appeal under Section 6-109 of Ordinance No. 255. Please put them on the Board's 4-10-17 agenda for that purpose. Thank you.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a long, horizontal stroke that tapers to a point.

Edward A. Grafton
Edward A. Grafton PLC

EAG/gm

CC: Susan Reaume



April 7, 2017

Spring Lake Township
Attn: H. Carolyn Boersma
101 S Buchanan
Spring Lake, MI 49456

HAND DELIVERED

Re: Appeal of Reaume Short Term Rental License Denial
18190 Lovell Road

Dear Ms. Boersma,

Enclosed please find a Petition of Administrative Appeal, and a supporting Memorandum and Affidavits, which pertain to next Monday's SLT Board Meeting.

Sincerely,

A handwritten signature in black ink, appearing to be "Edward A. Grafton", with a long, sweeping horizontal line extending to the right.

Edward A. Grafton
Edward A. Grafton PLC

EAG/gm

Encs.

CC: Susan Reaume

**PETITION OF ADMINISTRATIVE APPEAL
PURSUANT TO SECTION 6-108 OF ORDINANCE NO. 255**

To: Spring Lake Township Board

From: Susan Reaume, Owner of 18190 Lovell Road (pp 70-03-10-226-009)

Applicant and Administrative Appellant, Susan Reaume, by counsel, says:

1. She owns the premises commonly known as 18190 Lovell Road, Spring Lake, MI 49456 ("Premises").
2. On March 2, 2017, she submitted an application for short term rental license for the Premises.
3. Said application was DENIED on March 10, 2017, by Spring Lake Township staff. A copy of the written denial is attached.
4. Applicant hereby appeals said denial to the Spring Lake Township Board, and requests a hearing before the board, so that said denial may be REVERSED by the board.

Dated: April 7, 2017

Mill Point Legal Services

By: 

Edward A. Grafton (P29120)

Edward A. Grafton PLC

Attorneys for Applicant/Appellant Susan Reaume

**MEMORANDUM IN SUPPORT OF
PETITION OF ADMINISTRATIVE APPEAL**

PROCEDURAL SETTING

Appellant, Susan Reaume, ("Reaume") applied for a short term rental registration and license on March 2, 2017. The request was denied in writing by the Township clerk on March 10, 2017. Thereafter, on March 15, 2017, Reaume sought administrative review by the entire Township board pursuant to Section 6-109 of Ordinance 255. A hearing for that purpose has been scheduled for Monday, April 10, 2017 (5:00 PM EDT, Barber School).

FACTS

The subject real estate is commonly known as 18190 Lovell Road, Spring Lake, MI 49456 ("18190 Lovell"); and is assigned tax parcel number 70-03-10-226-009.

Reaume has been the owner of 18190 Lovell since 2003. During all of Reaume's years as owner, 18190 Lovell has been and continues to be a single family residence. Also, during all of Reaume's years as owner, 18190 Lovell has been zoned R-1.

Until 2014, 18190 Lovell was Reaume's personal residence. Reaume now lives in Crockery Township.

On or about March 5, 2015, she engaged Capstone Property Management to verify that the property at 18190 Lovell could be rented lawfully.

After the Capstone Property Management employees spoke with Spring Lake Township, they notified Mrs. Reaume that Spring Lake Township had no restrictions on renting the property on a short term basis. On or about April 21, 2015, she officially hired Capstone Property Management to manage the rental of 18190 Lovell.

On or about May 1, 2015, based on the information provided by Spring Lake Township to Barbara Hass, she officially listed the property for short term rentals.

The first rental occurred on June 9, 2015. The property was rented a total of 5 times on a short term basis in the summer of 2015. During the winter of 2015-2016, the Property was rented on a long-term basis from the beginning of November until May 1. In the summer of 2016, the property was rented a total of 9 times on a short term basis.

Spring Lake Township knew about the short term rental activity in 2015 and 2016, and had no objection so long as 18190 Lovell was not being rented to two (or more) different tenants at the same time.

On or about March 5, 2015, the Manager of Vacation Rentals, Barbara Hass, personally spoke with Connie Meiste, at the Spring Lake Township Offices, who confirmed that Spring Lake Township had no restrictions on renting the property at 18190 Lovell on a short term basis.

Lucas Hill, contacted Reaume in a letter dated February 2, 2016, which she shared with Julie Tardani, the current property manager for 18190 Lovell. Mr. Hill was concerned that the rental listing for 18190 Lovell might lead the public to believe that 18190 Lovell was a duplex. Mr. Hill never expressed concern about the fact that 18190 Lovell was being rented on a short term basis. Rather, he wanted to confirm that 18190 Lovell was not divided into a Multi-Family Dwelling.

Julie Tardani changed the language in the listing to clarify the fact that 18190 Lovell was not being offered to more than one renter at a time. After she changed the language, Lucas Hill contacted her and approved of the listing language.

In 2015 and 2016, Reaume made substantial expenditures to insure that 18190 Lovell was safe and inviting as a short term rental property. She also made many investments in the property to furnish, repair, and improve the property, as the needs of vacation home tenants are greater than the needs of long term renters. These investments totaled more than \$12,000. She would not have otherwise made these investments and incurred these expenses.

Spring Lake Township adopted Ordinance 255 on December 12, 2016. The ordinance became effective on February 6, 2017.

Reaume believes that the adoption of Ordinance 255 does not bar her continued use of 18190 Lovell as a short term rental property. She has no objection to the premise that Ordinance 255 does require certain safeguards and inspections for the health and welfare of the consumer.

So, Reaume's application for short term rental registration and license should not have been denied by Spring lake Township staff.

Several independent grounds exist for the reversal of staff's decision to deny registration and license for 18190 Lovell. Each is discussed below. APPELLANT REQUESTS THAT THE BOARD ADDRESS AND COME TO A DECISION ON EACH GROUND OF REVERSAL.

GROUND FOR REVERSAL

I. SHORT TERM RENTAL ACTIVITY AT 18190 LOVELL IS A "GRANDFATHERED" NON-CONFORMING USE, WHICH MUST BE ALLOWED.

A. **Section 6-107 of Ordinance 255 is a Zoning Ordinance and Short Term Renting is a Land Use.**

Spring Lake Township's Short Term Rental Ordinance, Ordinance 255, is a Zoning Ordinance. A Zoning Ordinance is defined by the Michigan Supreme Court as "an ordinance which regulates the use of land and buildings according to districts, areas, or locations." [Emphasis added.]

Section 6-107 of Ordinance 255 assigns and proscribes land uses based solely on zoning districts. Namely, it prohibits short term rentals in R-1 and R-2 districts. The remainder of Ordinance 255 regulates "activities" and "buildings" on short term rental properties.

According to Ordinance 255, renting rooms and buildings is a land use. Ordinance 255 consistently refers to short term renting as a "use." Also, the pre-existing Spring Lake Zoning Ordinance contains a list of things that are "uses," like "Bed and Breakfast," "Adult Foster Care," and "Place of Public Assembly." All of these "land uses" are distinguished by *who* occupies the property and *how* it is occupied. Similarly, short term rentals are distinguished by who occupies the property and how it is occupied (temporary residents versus permanent residents). Therefore, by Spring Lake Township's own standards, short-term renting is a land use.

Short term renting is not an "activity." The Michigan Supreme Court distinguishes land uses from activities. For example, when a township regulates docking and launching of boats, it is exercising its police power because docking and launching are "activities" that occur on public waterways. Spring Lake Township regulates similar "activities," because it requires that short term rental owners "provide off street parking," for instance

However, where a township regulates parking and storage on private property, without regard for public streets and sidewalks, the Supreme Court has held that the township is regulating a land use. This is analogous to the instant ban on short term rentals in R-1 and R-2, because the ban regulates a land use that is contained solely within private property.

B. Short Term Renting of 18190 Lovell was a Conforming Use Prior to the Enactment of Ordinance 255, and now it is a Permitted Non-Conforming Use.

Pursuant to the Michigan Zoning Enabling Act, townships are required to permit pre-existing non-conforming uses to continue after a zoning ordinance changes permitted land uses or changes zoning districts.

Spring Lake Township has enacted its own non-conforming use provision:

"Nonconforming Buildings, Structures, Lots, **and uses** which do not conform to one (1) or more of the provisions or requirements of this Ordinance or any subsequent amendments thereto, but which were lawfully established prior to the adoption of this Ordinance or subsequent amendment, may be continued."
[Emphasis added.]

Since Ordinance 255 is a zoning ordinance, and since she had a "lawfully established" use of her property prior to the enactment of Ordinance 255, Reaume has the right to continue using her property as she was.

1. *Reaume used 18190 Lovell as a short-term rental property prior to the enactment of Ordinance 255.*

In 2015 and 2016, Mrs. Reaume rented 18190 Lovell several times on a short-term basis during the rental season.

2. *Spring Lake Township Officials had actual knowledge that Reaume was renting 18190 Lovell on a short-term basis and gave affirmative approval.*

In March of 2015, Connie Meiste gave actual affirmative approval for 18190 Lovell to be rented on a short term basis. In early 2016, Lucas Hill gave tacit approval for 18190 Lovell to be rented on a short term basis. Therefore, Spring Lake Township has always represented that short-term rentals were a lawful use of property in the R-1 district.

3. *Nothing in the Spring Lake Township Zoning Ordinance prohibited short term rentals in the R-1 District prior to the enactment of Ordinance 255, so short term rentals were a lawful pre-existing use.*

The Spring Lake Township Zoning Ordinance Section 401 specifically provides that a home may be used as a Single Family Dwelling. A "Dwelling" is a "Building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily" [Emphasis added.]

The Spring Lake Township Zoning Ordinance defines Single Family Dwelling as "[a] Building designed for use and occupancy by one (1) Family only. ..." [Emphasis added]. The phrase "Single-Family," refers to the design of the home, in that it was built to suit only a single family as opposed to being divided for use as a duplex or apartment building. It does not refer to the actual relationship of the individual occupants to each other, and it does not exclude temporary occupants.

"Single-Family" has never been interpreted to mean that unrelated individuals cannot cohabitate in Spring Lake Township. It has also never been interpreted to mean that the same individuals had to live in a residence continuously throughout the year.

For instance, if a boyfriend and girlfriend reside together in a home that has only one inhabitable unit, that home still retains its character as a single family dwelling.

Likewise, if a group rents a home that has only one inhabitable unit for a week, and a different group rents that home for the following week, it still retains its character as a single family dwelling.

Here, 18190 Lovell was used as a temporary residence that was always designed to be occupied by a single group. Therefore, 18190 Lovell was lawfully used as a short term rental prior to the enactment of Ordinance 255.

Reaume is not attempting to expand a non-conforming use. Rather, she is only trying to maintain her current use.

C. Granting a Short Term Rental Permit in this Case does not Conflict with the Township's Stated Interests in Health, Safety, and Welfare.

1. *18190 Lovell is "located and constructed that the average neighbor, under normal circumstances, will not be aware of its existence."*

Reaume made her application in an effort to comply with all of the regulations within Ordinance 255. All details of the rental are handled by the professional property rental team at Unsalted Vacations. Since the summer of 2016, they have made themselves available to neighbors on a 24/7 basis to handle any complaints and will continue to do so.

As required by Ordinance 255, the Owner and property manager intend to have 18190 Lovell inspected for safety and ensure that tenants are aware of all local ordinances regarding their conduct.

The driveway is a large loop with plenty of parking and access to two garages. The garages can store up to 5 cars. There is no need for on-street parking.

Mrs. Reaume has no knowledge of any noise complaints regarding 18190 Lovell. She has no knowledge of any substantiated tenant conduct complaints. To her knowledge, nothing that has gone on at 18190 Lovell that would disturb *"the average neighbor, under normal circumstances"* or create a nuisance, as defined by Spring Lake Township Ordinance Chapter 14, Article 2, or Chapter 16, Article IV, or in violation of the laws of the State of Michigan.

2. *The Township can still "discourage the purchasing of property for vacation Rental uses."*

The Owner has applied for her permit to continue renting 18190 Lovell on a short term basis pursuant to the Township's non-conforming use ordinance. By granting her this permit, the township would not be encouraging *"the purchasing of property for vacation Rental uses."* Rather, it is clear that this permit is only being granted because she has a valid non-conforming use. Any potential purchasers of Spring Lake Township property would not qualify for a permit under these circumstances. Similarly, current property owners in R-1 and R-2 would not qualify for a permit if they decided to start renting their properties on a short term basis.

II. ORDINANCE 255 WAS NOT PROPERLY ENACTED UNDER APPLICABLE STATE LAW, AND THEREFORE THE ORDINANCE IS UNENFORCEABLE AS AGAINST APPELLANT AND ALL OTHER SIMILARLY SITUATED SHORT-TERM LANDLORD.

For all of the reasons discussed above, Ordinance 225, Section 6-107, is a zoning ordinance. As such, the Michigan Zoning Enabling Act requires that Spring Lake Township take certain steps and give specific notice of its intention to enact the ordinance, and the proposed language in the ordinance.

The township Board did not adhere to the notice and adoption requirements of the Michigan Zoning Enabling Act. Section 6-107 of the Spring Lake Township Short Term Rental Ordinance is therefore invalid and unenforceable.

III. ORDINANCE 255 DENIES SUBSTANTIVE DUE PROCESS TO APPELLANT AND ALL OTHER SIMILARLY SITUATED SHORT-TERM LANDLORDS, AND IS THEREFORE UNENFORCEABLE.

Ordinance 255's prohibition of short-term rentals in R1 districts does not bear a reasonable relationship to public health, safety or welfare; but instead is the Township Board's attempt to placate a small group of owners who live near 18190 Lovell. As a result, the Township has violated Mrs. Reaume's substantive Due Process rights.

According to the Michigan Supreme Court, a "plaintiff-citizen may be denied substantive due process by the enactment of legislation, in this case a zoning ordinance, which has, in the final analysis, no reasonable basis for its very existence."

The Township here imposed an outright ban on short term rentals in the R-1 and R-2 districts "to discourage the purchasing of property for vacation Rental uses." The Township's ban on short term rentals in R-1 and R-2 districts has "no reasonable basis for its very existence" for several reasons. Therefore, it is unconstitutional on its face and as applied to 18190 Lovell.

"A zoning ordinance is invalid if it fails to advance a legitimate governmental interest or if it is an unreasonable means of advancing a legitimate governmental interest."

A. The Township's Stated Purpose is Illegitimate.

- 1. The Township has no legitimate governmental interest in discouraging the purchasing of property for vacation rental uses because the risk is illusory.*

Homes in the R-1 and R-2 districts are in high demand for permanent residences. Spring Lake has an excellent school district. The property values in the R-1 and R-2 districts of Spring Lake Township are substantial.

The Jackson district in Grand Haven, which saw a surge in short term rentals, is distinguishable from Spring Lake Township R-1 and R-2 districts. First, the Jackson area was slightly depressed and investors could purchase homes at a low price, remodel the homes, and then rent them for a profit. The Jackson district was also ripe for this type of investment because downtown Grand Haven is a tourism hub and the Jackson district is close to attractions in Grand Haven.

However, the R-1 and R-2 districts in Spring Lake Township are not depressed, are not in need of repair and improvement, and do not have a surplus of available properties. Rather, the homes are well maintained, the land is highly valuable, and the properties are in demand for

purchase as primary residences. Purchasing these properties as vacation rentals is an unreasonable investment.

Furthermore, at the time that Ordinance 255 was developed and enacted, very few short term rental properties existed in the R-1 and R-2 districts. So, there was nothing to indicate that a surge in short term rental properties was even a threat.

Spring Lake Township has no real risk of a surge in short term rental properties in R-1 and R-2 districts and no reason to believe it will become a risk. Therefore, the Township has no legitimate interest in discouraging such purchases. That stated purpose behind the short term rental ban is illegitimate.

2. *The Township's Actual Purpose was to Placate a Few Residents.*

Ordinance 255 creates a risk of arbitrary and disproportionate enforcement because the Township is taking no steps to uniformly police the short-term rental ban across all R1 properties. Instead, the Township is only going to respond to a neighbor's complaint about the existence of short-term rental activity. An eye will be kept on 18190 Lovell, but on no other properties. This is fundamentally unfair and unconstitutionally vague.

Although the Township claims that it was interested in curtailing short term rentals, the actual purpose behind an outright ban was to satisfy a few neighbors to the 18190 Lovell property by eliminating short term rentals at that property.

After a few neighbors complained about 18190 Lovell being rented on a short term basis, the Township began to discuss and develop Ordinance 255 as a way "to deal with the Lovell rental situation," in the words of John Nash, Township Supervisor. Although they complained to the Township about 18190 Lovell, they never made any complaints to Mrs. Reaume or her property manager, Julie Tardani. There have been no citations or substantiated nuisance claims regarding tenants. Julie Tardani handed her business card to neighbors and offered for them to contact her 24/7 regarding any tenant issues. She never received any calls from neighbors.

As early as July 22, 2016, the Township was scrutinizing 18190 Lovell more closely to appease neighbors. John Nash, Township Supervisor, sent a letter (copy attached) to Capstone Property Management, and the neighbors, to reassure the neighbors that "Township officials have asked our Ottawa County patrol deputies to check this area at least once every weekend and record what they observe and deal with any/all infractions." No infractions were ever found.

But even with this heightened scrutiny, these neighbors were still not satisfied. They were present and making noise at all of the Township Board meetings regarding short term rentals. These neighbors were complaining about innocuous things, such as a beach ball rolling on to their property, or children playing in the water and making noise during the day.

Any notion that the tenants of 18190 Lovell were disruptive or misbehaving is disingenuous because there is no proof. The neighbors' sole complaint was simply that 18190 Lovell was being rented at all. Knowing that they had no civil recourse against Mrs. Reaume or the tenants, these neighbors took the issue to Spring Lake Township.

Since these neighbors were unreasonable and persistent, the Township clearly recognized that it could not satisfy and quiet them by simply limiting the number of R-1 and R-2 short term rentals, or by regulating tenant behavior, or by regulating the number of tenants at a property. The neighbors of 18190 Lovell would only be satisfied if short term rentals were eliminated completely in their neighborhood.

B. The Means of Advancing the Township's Stated Interest is Illegitimate.

An outright ban on short term rentals is unnecessary to achieve the Township's stated purpose, and it is an egregious abuse of its powers. Rather than simply limiting or regulating short term rentals, which are valid and valuable use of private property, it stole that "stick" from the property owner's bundle of property rights. An outright ban does not merely "discourage" short term rentals, but eviscerates them all together.

The Township had far less invasive options. A reasonable exercise of its police power may have been to limit the number of short term rental properties permitted in various districts. But complete prohibition is unreasonable.

IV. ORDINANCE 255 DENIES APPELLANT AND ALL OTHER SIMILARLY SITUATED SHORT-TERM LANDLORDS EQUAL PROTECTION OF THE LAW, AND IS THEREFORE UNENFORCEABLE.

Ordinance 255 discriminates between owners of R1 properties based on characteristics that do not justify different treatment.

CLASS #1: When an R1 owner does not charge persons to stay at the owner's real estate, that owner can have as many guests as he chooses and as often as he chooses. No inspection or license is required.

CLASS #2: When an R-1 owner charges persons to stay at the owner's real estate for 28 or more at a time, no inspection or license is required.

CLASS #3: For two weeks every calendar year, an R1 owner may charge persons to stay at the owner's real estate. No inspection or license is required.

CLASS #4: If an R11 owner charges persons to stay at the owner's real estate for less than 28 days at a time, and does so multiple times in a calendar year, that owner violates Ordinance 255.

All of the classes of R-1 owners mentioned above are similarly situated. There is no rational basis to treat CLASS 4 owners different from CLASS 1, 2 and 3 owners. The discriminatory treatment of CLASS 4 owners is a denial of equal protection.

V. PROHIBITION OF SHORT TERM RENTAL ACTIVITY AT 18190 LOVELL
CONSTITUTES A TAKING WITHOUT JUST COMPENSATION, AND THEREFORE
IS UNFORCEABLE ABSENT PAYMENT TO APPELLANT.

The ban of short term rentals in R-1 and R-2 amounts to a confiscation of property in violation of Mrs. Reaume's right to Just Compensation. Given that it violates her rights to Due Process and Equal Protection, as discussed above, Ordinance 255 is *ipso facto* a taking without just compensation. It also qualifies as a taking because it deprived her of economic value of her property.

The Michigan Courts originally held the view that a confiscation claim could not be maintained unless a property owner showed that enforcement would "preclude [a property's] use for any purposes to which it is reasonably adapted."

The Courts have now softened their position and adopted the view that a property owner may also claim a taking if (1) the government's action was illegitimate, (2) the action has an economic effect on the property, and (3) the regulation interferes with distinct, investment-backed expectations.

As discussed in Paragraphs III and IV above, the Township's action was illegitimate. The action also had an economic effect on the property. The home can be rented monthly for \$2,500 per month. During the months of June, July, August, and half of September, the home can be rented weekly for \$7,500. Without short-term rental income, that is an annual loss in potential net income of \$76,663, before depreciation.

The governmental action interferes substantially with the owner's use of the property. The economic uses of a property in an R-1 district are already very limited. They previously included such permitted uses as Adult Foster Care, Place of Public Assembly, Day Care (Family), Home Occupation, and short and long term rental as a Single-Family Dwelling, and special uses such as Day Care (Group) and Farm.

Here, the Township interfered with Mrs. Reaume's distinct, investment-backed expectations. The Township stole a very substantial "stick" from the owner's bundle of economic property rights after she invested more than \$12,000 to make the property comfortable.

RELIEF REQUESTED

Appellant Susan Reaume respectfully requests that the Township Board REVERSE staff's decision to deny registration and license of 18190 Lovell as a short-term rental, and order staff to proceed with the registration process that leads to issuance of a license.

Dated: April 7, 2017

Mill Point Legal Services

By: 

Edward A. Grafton (P29120)

Edward A. Grafton PLC

Attorneys for Applicant/Appellant Susan Reaume

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July 22, 2016

Ways to deal with the Lovell rental situation which can be done right now:

1. Area residents Call 911 if there is too much noise, trespassing, littering and/or cars and/or trailers blocking the public road – all these things are already covered in the SLT Ordinances.
2. Township officials have asked our Ottawa County patrol deputies to check this area at least once every weekend and record what they observe and deal with any/all infractions.
3. The above listed information is being emailed to the nearby residents and to Capstone Reality to assure everyone receives the same information.

Obviously, the Spring Lake Township Board will proceed with their intention to develop a short term rental draft ordinance which can be presented at a public hearing.

John Nash, Supervisor



AFFIDAVIT OF SUSAN REAUME

STATE OF MICHIGAN)
) ss.
COUNTY OF OTTAWA)

Susan Reaume, first being duly sworn, deposes and says:

1. She is a person of suitable age and discretion and has personal knowledge of the matters asserted herein.
2. She is and has been the owner and title-holder of the property located at 18190 Lovell, Spring Lake, Michigan 49456 (the "Property") since 2003.
3. She resided in the home at the Property and raised her children there.
4. During her ownership of the Property, the home was always been, and still is, a Single-Family home.
5. The home has seven bedrooms, five bathrooms, and two kitchens.
6. She moved from the Property to a home in Crockery Township in 2014.
7. In early 2015 she decided to rent the home at the Property as a vacation home.
8. On or about March 5, 2015, she engaged Capstone Property Management to verify that the Property could be rented lawfully.
9. After the Capstone Property Management employees spoke with Spring Lake Township, they notified her that Spring Lake Township had no restrictions on renting the Property on a short term basis.
10. On or about April 21, 2015, she officially hired Capstone Property Management to manage the rental of the Property.
11. Lucas Hill sent her a letter on February 2, 2016 (Attached as Exhibit 1), stating that the vacation rental listing gave the appearance that the Property had been modified to a Multi-Family Dwelling, in violation of the Spring Lake Zoning Ordinance.
12. She forwarded the letter to Julie Tardani, her property manager.
13. Julie Tardani corrected the language in their vacation rental listing to clarify that the Property was a Single-Family Dwelling.

14. Lucas Hill called Susan Reaume and told her that the new listing language was acceptable and that he would "close the file."

15. He never indicated any concern that she was renting the Property on a short term basis.

16. Because of Spring Lake Township's assurances, she invested more than \$12,000 in improvements, repairs, and furnishings for the Property before she listed it.

17. Those improvements and repairs include refinishing floors, remodeling 3 bathrooms, furnishing the entire home, providing linens, and equipping the home with entertainment devices.

18. She made the improvements and repairs for the purposes of accommodating vacationing tenants.

19. She deliberately set the weekly rental rate at a substantial rate (1) to attract more established and mature tenants, and (2) because the space and amenities at the Property are substantial enough to warrant such a rate.

20. The home can be rented monthly for \$2,500 per month. During the months of June, July, August, and half of September, the home can be rented weekly for \$7,500. Since Ordinance 255 was enacted, it has resulted in an annual difference in potential net income before depreciation of \$76,663.

21. She would like to keep the Property for her children and grandchildren.

22. Without Short Term Rental income it is unlikely she will be able to keep and maintain the Property for her family.

23. She attended a meeting by the Spring Lake Township Board on November 1, 2016, at the Spring Lake Middle School Auditorium, regarding short term rentals.


24. A neighbor to 18190 Lovell spoke about the short term rentals at 18190 Lovell at that meeting.

25. That neighbor complained that a beach ball rolled into her yard from 18190 Lovell.


26. She never had any neighbors contact her directly with any tenant issues.

27. She has not been made aware of any tenant behavior that would have violated any Spring Lake Township Ordinances or Michigan Statutes.

Further deponent sayeth not.


Susan Reaume

The foregoing instrument was acknowledged before me this 7th day of April,
2017, by Susan Reaume.


Jennifer L. Lynn, Notary Public for Ottawa County,
Acting in Ottawa County
My Commission Expires: 2/1/2021

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EXHIBIT 1

"Where Nature Smiles for Seven Miles"



spring lake township

106 South Buchanan
Spring Lake, Michigan 49456
Phone: (616) 842-1340
Fax: (616) 842-1546

February 2, 2016

Ms. Susan Schneider Penning
18190 Lovell Road
Spring Lake, MI 49456

RE: Illegal Multifamily Dwelling at 18190 Lovell Road

Dear Ms. Penning,

Information recently provided to Spring Lake Township indicates that the subject property under your ownership is in violation of Spring Lake Township Ordinances as it appears that the single family dwelling at the subject location has been modified into a multifamily dwelling (enclosed). The subject property is zoned R-1 Low Density Residential and does not permit two family or multifamily buildings.

To avoid further enforcement action, which may include a civil infraction citation, please contact this office at 844-2110 by February 8, 2016, to review this apparent violation.

Sincerely,

Lukas Hill, AICP
Community Development Director

Cc: Gordon Gallagher, Township Manager
Dan E. Bylenga, Jr.

Enc.

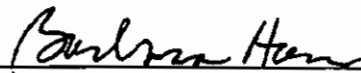
AFFIDAVIT OF BARBARA HASS

STATE OF MICHIGAN)
) ss.
COUNTY OF OTTAWA)


Barbara Hass, first being duly sworn, deposes and says:

1. She is a person of suitable age and discretion and has personal knowledge of the matters asserted herein.
2. On or about March 5, 2015, she was Manager of Vacation Rentals working for Capstone Property Management, 300 Washington Ave., Ste. 200, Grand Haven, Michigan 49417.
3. On or about March 5, 2015, she personally spoke with Connie Meiste at the Spring Lake Township offices via telephone to inquire about whether there were any restrictions on short term rentals for the property located at 18190 Lovell, Spring Lake, Michigan 49456.
4. Connie Meiste said that Spring Lake Township had no restrictions on short term or long term rentals.
5. On or about March 5, 2015, she sent this information to Susan Reaume, who was known as Susan Penning at the time, and to Candi Stone, a coworker, regarding 18190 Lovell, Spring Lake, Michigan 49456.

Further deponent sayeth not.


Barbara Hass

The foregoing instrument was acknowledged before me this 3rd day of April, 2017, by Barbara Hass.


Jennifer L. Lynn, Notary Public for Ottawa County,
Acting in Ottawa County
My Commission Expires: 2/1/2021

AFFIDAVIT OF JULIE TARDANI

STATE OF MICHIGAN)
) ss.
COUNTY OF OTTAWA)

Julie Tardani, first being duly sworn, deposes and says:

1. She is a person of suitable age and discretion and has personal knowledge of the matters asserted herein.
2. On or about April 1, 2015, she was a listing agent working for Capstone Property Management, 300 Washington Ave., Ste. 110, Grand Haven, Michigan 49417, which merged with Unsalted Vacations on January 1, 2017.
3. On or about April 1, 2015, she began to work with the owners 18190 Lovell, Spring Lake, Michigan 49456 (the "Property"), in an effort to list the property for short term rentals.
4. On or about May 1, 2015, based on the information provided by Spring Lake Township to Barbara Hass, she officially listed the Property for short term rentals.
5. The first rental occurred on June 9, 2015.
6. The Property was rented a total of 5 times on a short term basis in the summer of 2015.
7. During the winter of 2015-2016, the Property was rented on a long-term basis from the beginning of November until May 1.
8. In early 2016, Lucas Hill from Spring Lake Township contacted her about the listing for the Property.
9. He was only concerned that the rental listing for 18190 Lovell might lead the public to believe that 18190 Lovell was a duplex.
10. Lucas Hill never expressed concern about the fact that the Property was being rented on a short term basis.
11. Rather, Lucas Hill wanted to ensure that the Property was not being rented as a Multi-Family Dwelling.

12. She changed the language in the listing to clarify the fact that the Property was not being offered to more than one renter at a time.

13. After she changed the language, Lucas Hill contacted her and approved of the listing language.

14. The Property was rented a total of 9 times on a short term basis in the summer of 2016.

15. The Property was unoccupied from September of 2016 until March 15, 2017, due to the new Spring Lake Township Short Term Rental Ordinance.

16. In the summer of 2016, she attended the first Spring Lake Township Board meeting regarding short term rentals. Neighbors to the Property were also in attendance.

17. The neighbors stated that they did not want to have to call 911 to deal with any tenant issues at the property at night and on weekends.

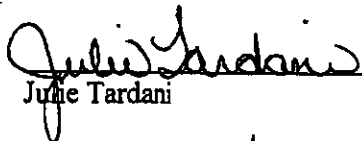
18. She handed out her business card and told the neighbors that she was available to receive calls 24/7, and that she would go to the property and deal with tenant issues.

19. It was the policy of Unsalted Vacations to deal with complaints about tenants on a case-by-case basis, and to evict tenants if issues were severe enough or persistent.


20. She never received any calls or complaints from anyone regarding the Property.

21. She continues to manage the property as an employee of Unsalted Vacations.

Further deponent sayeth not.


Julie Tardani

The foregoing instrument was acknowledged before me this 5th day of April, 2017, by Julie Tardani.


Jennifer L. Lynn, Notary Public for Ottawa County,
Acting in Ottawa County
My Commission Expires: 2/1/2021

1

* * * * *

SPRING LAKE TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
MONDAY, APRIL 10, 2017 - 5:00 P.M.

BARBER COMMUNITY SCHOOL
102 WEST EXCHANGE STREET
SPRING LAKE, MICHIGAN 49456

* * * * *

PRESENT:

RONALD BULTJE (P29851), TOWNSHIP ATTORNEY
GORDON GALLAGHER, SPRING LAKE TOWNSHIP MANAGER

TRUSTEES:

JOHN NASH, SUPERVISOR
CAROLYN BOERSMA, CLERK

JIM KOSTER

RICK HOMAN

RON LINDQUIST

JERRY RABIDEAU

RACHEL TERPSTRA

ALSO PRESENT:

EDWARD A. GRAFTON, ESQ. (P29120), ATTORNEY FOR SUSAN REAUME
SUSAN REAUME

* * * * *

TRANSCRIPT OF PROCEEDINGS RE: SHORT TERM RENTAL DENIAL APPEAL

SUPERVISOR NASH: Okay. It's 5:00 o'clock.

MS. BOERSMA: Nash?

SUPERVISOR NASH: Here.

MS. BOERSMA: Boersma?

MS. BOERSMA: Here. Koster?

MR. KOSTER: Here.

MS. BOERSMA: Homan?

MR. HOMAN: Here.

MS. BOERSMA: Lindquist?

MR. LINDQUIST: Here.

MS. BOERSMA: Rabideau?

MR. RABIDEAU: Here.

MS. BOERSMA: Terpstra?

MS. TERPSTRA: Here.

(Opening Prayer and Pledge of Allegiance)

(Other agenda matters)

* * * * *

SUPERVISOR NASH: Okay. Number 6, Short Term Rental Denial Appeal. I think we're all very familiar that we went through this discussion for eight months getting a lot of information from other municipalities, from residents -- a lot of residents' input, legal input. And the board did make a decision on what they

1 left for a home on Spring Lake. So, therefore, I would
2 recommend -- you make the decision. I'm not going to
3 recommend a decision. I would say to you I do not
4 believe that the legal arguments advanced to you are
5 legitimate.

6 SUPERVISOR NASH: Any questions from the board
7 of Mr. Bultje?

8 (No response.)

9 SUPERVISOR NASH: So it's time for us to discuss
10 it?

11 MR. BULTJE: Absolutely. Any questions or
12 opinions that any of you have would be appropriate now
13 and then a motion would be appropriate.

14 MS. BOERSMA: I'm satisfied that we have done
15 everything that we were told to do, and I'm okay with
16 directing our attorney to write a response denying.

17 MR. LINDQUIST: I support.

18 SUPERVISOR NASH: I would say we spent an awful
19 lot of time discussing this for a lot of opinions, and,
20 you know, the board had a lot of different opinions as
21 we went through it, ended up with a unanimous decision
22 which I thought was very positive. I agree and
23 understand what Mr. Bultje said.

24 I also think that Mr. Grafton's client had every
25 legal right to test this in court, and I think that's

1 the purpose of this hearing to a step that has to be
2 taken before it goes to court. We have to deny it
3 again. So I think that it's more procedural than
4 anything else, and I will also support denial.

5 MR. LINDQUIST: I for one have not heard
6 anything tonight that would conflict with what I think
7 we went through eight or nine months ago and in good
8 faith adopted Ordinance 255 and the related sister
9 ordinance -- zoning ordinance, and that was our
10 intention. So I would be very much in favor of denying
11 the appeal.

12 SUPERVISOR NASH: Any further comment?

13 MS. TERPSTRA: I would just second that. Most
14 of the arguments that are presented tonight were
15 presented while we were going through the ordinance,
16 and, you know, most of those legal considerations were
17 taken into consideration before we passed the ordinance,
18 and how we passed the ordinance is regulatory. So,
19 yeah, I mean, I think it's basically the reason we're
20 here tonight is so they can take it to court and it's a
21 step that we have to take and we should deny and let
22 them go ahead and proceed.

23 SUPERVISOR NASH: Any further board comment?

24 MS. BOERSMA: I'd like to make that motion to
25 direct Attorney Bultje to write a written response of

1 denial to the appeal.

2 MR. LINDQUIST: Second.

3 Mr. GALLAGHER: And then that would be
4 considered for action at our May 8th board meeting?

5 MS. BOERSMA: Yes.

6 SUPERVISOR NASH: Any further discussion?

7 MR. BULTJE: I just want to underline or
8 emphasize, this is -- the motion is directing me to do
9 something. It is not a decision on the appeal at this
10 point. There has been no --

11 SUPERVISOR NASH: No, no. We know that.

12 MR. BULTJE: I know you all know that. I want
13 to make sure everyone to my left knows that.

14 SUPERVISOR NASH: Well, I think the thing that's
15 important is we have to have a written response so we
16 have to make an opinion for our attorney to create
17 something that can be put in writing and we review it.
18 If we still agree, then it goes on. Isn't that correct?

19 MR. BULTJE: Yes.

20 SUPERVISOR NASH: Is there any further comments?
21 I think we should have roll call.

22 MS. BOERSMA: Terpstra?

23 MS. TERPSTRA: Yes.

24 MS. BOERSMA: Rabideau?

25 MR. RABIDEAU: Yes.

**Minutes of a Regular Meeting of the
Spring Lake Township Board of Trustees
May 8, 2017**

A meeting of the Spring Lake Township Board of Trustees was held at Barber School, 102 W Exchange St, Spring Lake MI 49456

1. Call to Order/Roll Call of the Board:

Supervisor Nash called the meeting to order at 7:00pm.

Present: John Nash, Carolyn Boersma Jim Koster, Rick Homan, Jerry Rabideau, Rachel Terpstra

Absent: Ron Lindquist

Participants: Gordon Gallagher, Spring Lake Township Manager; Ron Bultje, Township Attorney

2. Invocation and Pledge:

Supervisor Nash opened the meeting with a spiritual reading and the pledge of allegiance.

3. Public Comment:

Public comment was opened at 7:01pm and closed at 7:02pm. Three comments were offered.

4. Approval of Agenda:

Motion by Homan, support by Terpstra to approve the agenda with the deletion of 7 FOIA Appeal – Maria Carroll; the addition of 7 Boy Scout Camp Request and 11a Road Funding. The motion carried unanimously.

5. Approval of Consent Agenda:

The consent agenda was approved with a **motion** by Homan, and supported by Terpstra.

- a. Approve April 10, 2017 Meeting Minutes
- b. Approve payment of all fund bills
- c. Receive April 2017 Financials

6. Short Term Rental Appeal

At the April 10 Board Meeting, Township Attorney Bultje was directed by the Board to draft a written response of denial to the Reaume Appeal concerning Short Term Rentals. A **motion** was made by Homan and supported by Rabideau to approve a Resolution and appended report attached as Exhibit A to deny the Appeal under Ordinance No. 255, the Short-Term Rental and Appeals Regulations Ordinance as written. [RC] The motion carried unanimously.

7. FOIA Appeal – Maria Carroll – Deleted

7. Boy Scout Camp Request

The Pere Marquette District will be sponsoring a Cub Scout Day Camp at Rycenga Park 3 days in August this year. Cubmaster George Kotkowicz and Deputy Travis Babcock, also a scout leader, requested permission to have an archery and BB gun range set up off to the west side in the power line lanes.

After getting satisfactory answers to safety and other pertinent issues the Board approved a **motion** by Rabideu and support by Terpstra to allow a one-time test run of the activities for this year.

8. Hickory and 174th Rezoning

Motion by Terpstra, support by Rabideau to adopt and authorize the Supervisor and Clerk to sign an Ordinance to amend certain portions of the Zoning Ordinance and Map of Spring Lake Township for the purpose of rezoning certain property from the Mixed Use Commercial to the High Density Residential Zoning District, draft dated 3/29/17. [RC] The motion carried unanimously.

9. Bayou Ventures – Conditional Rezoning Request

Motion by Terpstra, support by Rabideau to adopt and authorize the Supervisor and Clerk to sign an Ordinance to amend certain portions of the Zoning Ordinance and Map of Spring Lake Township for the purpose of rezoning certain property from the R2 Medium Density Residential to the Mixed Use Commercial zoning district, draft dated 3/27/17. [RC] The motion carried unanimously.

Motion by Terpstra, support by Rabideau to adopt and authorize the Supervisor and Clerk to sign a Contract Zoning Agreement between Spring Lake Township and Bayou Ventures, LLC, draft date 5/01/17, within 12 months after the rezone is effective. [RC] The motion carried unanimously.

10. Board Reports – Ambulance, PC, ZBA, Treasurer, Clerk

A time for information sharing was given to the Board members

11. Spring Ridge PUD

Motion by Terpstra, support by Homan to approve and authorize the Supervisor and Clerk to sign the Spring Ridge Contract, draft date 4/24/17, between Spring Lake Township and Wagoner, LLC. [RC] The motion carried unanimously.

Motion by Terpstra, support by Homan to approve and authorize the Supervisor and Clerk to sign the Storm Water and Maintenance Agreement, draft date 4/24/17-2, between Spring Lake Township and Wagoner, LLC, with the signed copy brought to the meeting by Wagoner LLC [RC] The motion carried unanimously.

Motion by Terpstra, support by Homan to approve and authorize the Supervisor and Clerk to sign the Agreement for Private Road Maintenance, draft date 4/24/17-2, between Spring Lake Township and Wagoner, LLC, with the signed copy brought to the meeting by Wagoner LLC [RC] The motion carried unanimously.

11a. Road Funding

Motion by Rabideau, support by Terpstra, to approve an amount, not to exceed \$185,000.00 to authorize the OCRC to resurface Highland Drive, Glendale Circle, Pine, Oak Ridge and Oak Point. [RC] The motion carried unanimously.

12. Personnel Policy Amendments

Motion by Homan, support by Rabideau to approve the proposed addition to the Personnel Policy Manual Concealed Weapons 3.14 as written. The motion carried.

13. Burn Ordinance Amendments

Chief Sipe presented the proposed changes to the Burn Ordinance.

14. 2015 International Fire Code

Motion by Terpstra, support by Koster to adopt and authorize the Supervisor and Clerk to sign an Ordinance to adopt the 2015 Edition of the International Fire Code, draft date 5/2/2017. [RC] The motion carried unanimously.

15. Board Reports – Supervisor, Manager

16. Adjourn

The meeting adjourned at 9:15pm.

Respectfully submitted,

H. Carolyn Boersma, CMC
Spring Lake Township Clerk

Draft Date
05/02/17

EXCERPTS OF MINUTES

At a meeting of the Township Board of Spring Lake Township, Ottawa County, Michigan, held at Barber School, 102 West Exchange, Spring Lake, Michigan, on the 8th day of May, 2017, at 7:00 p.m., local time.

PRESENT: John Nash, Jim Koster, H. Carolyn Boersma, Rick Homan, Jerry Rabideau, and Rachel Terpstra.

ABSENT: Ron Lindquist.

After certain other matters of business were concluded, the Supervisor stated the next order of business was the consideration of a proposed Resolution and appended Report containing the Board's decision concerning an appeal filed by Susan Reaume under Ordinance No. 255, the Short-Term Rental Regulations Ordinance (the "Appeal"). After discussion, the following Resolution was offered by Homan and supported by Rabideau.

RESOLUTION

WHEREAS, the Township Board held a hearing regarding the Appeal on April 10, 2017; and

WHEREAS, the Township Board wishes to adopt the Report, attached as Exhibit A, to deny the Appeal under Ordinance No. 255, the Short-Term Rental Regulations Ordinance.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

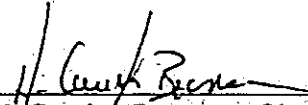
1. The Board adopts the Report attached as Exhibit A, which Report contains the Board's denial of the Appeal under Ordinance No. 255, the Short-Term Rental Regulations Ordinance.
2. All resolutions in conflict in whole or in part are revoked to the extent of such conflict.

YES: Nash, Koster, Boersma, Homan, Rabideau, and Terpstra.

NO: None.

RESOLUTION DECLARED ADOPTED.

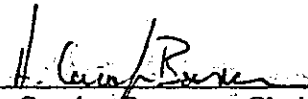
Dated: May 8, 2017



H. Carolyn Boersma, Clerk
Spring Lake Township

CERTIFICATE

I, the undersigned, the Clerk of the Township of Spring Lake, Ottawa County, Michigan, certify that the foregoing is a true and complete copy of a Resolution adopted by the Township Board at a meeting held on the 8th day of May, 2017. I further certify that the public notice of the meeting was given pursuant to and in full compliance with Michigan Act 267 of 1976, as amended, and that the minutes of the meeting were kept and will be or have been made available as required by the Act.



H. Carolyn Boersma, Clerk
Spring Lake Township

Draft Date
05/02/17**EXHIBIT A****REPORT**

On December 12, 2016, the Spring Lake Township Board (the "Township Board") adopted a regulatory ordinance, the Short-Term Rental Regulations Ordinance, Ordinance No. 255 ("Ordinance No. 255"), addressing short-term rental practices in Spring Lake Township (the "Township") by adding Article V to Chapter 6 of the Spring Lake Township Code of Ordinances. Ordinance No. 255 went into effect on February 6, 2017. Thereafter, on March 27, 2017, the Township Board adopted a corresponding Zoning Text Amendment Ordinance, Ordinance No. 257 ("Ordinance No. 257"), effective April 7, 2017, to work in conjunction with Ordinance No. 255 by regulating short-term rentals.

On March 2, 2017, Ms. Susan Reaume (the "Applicant") applied for a short-term rental registration pursuant to Ordinance No. 255 for her property at 18190 Lovell Road, Spring Lake, Michigan, 49456 (the "Property"). The Township denied her application on March 10, 2017. She appealed that decision to the Township Board, and a hearing was held regarding the matter on April 10, 2017. One business day prior to that hearing, the Applicant's attorney provided the Township Board with his "Memorandum in Support of Petition of Administrative Appeal" (the "Memorandum").

Having conducted the hearing regarding this appeal, the Township Board now submits this denial. Each of the requested grounds for reversal of the application denial shall be addressed separately in the following pages.

*Reasons for Denial***I. Ordinance No. 255 was properly adopted and is supported by the Zoning Ordinance.**

Ordinance No. 255 regulates activity, as opposed to land usage, and as such, it was properly enacted as a police-power or regulatory ordinance. Unlike aspects of land regulation such as setbacks, parcel size, or building height, which must be addressed through zoning ordinances, regulations addressing activities that occur on land may be adopted by a police-power or regulatory ordinance, which regulations are adopted for the public health, safety, and welfare. See *Square Lake Hills Condo Ass'n v Bloomfield Tp*, 437 Mich 310, 325; 471 NW2d 321 (1991). The Township validly enacted Ordinance No. 255 for the public health, safety, and welfare.

In addition, Ordinance No. 255 is supported by Ordinance No. 257, which confirms and effectuates any land-usage aspects of the short-term rental activity regulated by Ordinance No. 255. Ordinance No. 255 took effect on February 6, 2017, and it was only intended to regulate activities in the Township. The Township anticipated enacting a corresponding amendment to its Zoning Ordinance to effectuate any related land-use regulations. Thus, Ordinance No. 257 was adopted shortly thereafter, on March 27, 2017, which amended the permitted uses in the Township's zoning districts to allow short-term rentals in specified areas, because short-term rentals had not been

permitted previously. The Township followed all notice requirements, pursuant to the Michigan Zoning Enabling Act, before adopting Ordinance No. 257. A Planning Commission public hearing was properly noticed and held, and Ordinance No. 257 was recommended by the Planning Commission, adopted by the Township Board, and published following its adoption. Ordinance No. 257 passed essentially without any opposition.

Even if the argument that Ordinance No. 255 is unenforceable in its current form had any merit, the short-term rental use of the Property is prohibited by the Ordinance No. 257, which was, without a doubt, enacted properly.

II. Short-term rentals have never been allowed by the Township's Zoning Ordinance, and any "grandfathering" argument fails.

Any use not permitted by a zoning ordinance is considered a nuisance per se and is therefore prohibited. *See* MCL 125.3407. The Property is located in the R-1 District, which is zoned to allow a number of permitted uses, one of which is single-family dwellings. *See* Article 8 of the Township's Zoning Ordinance. The applicant argues that the short-term rental of her Property constitutes a proper and permitted use as a single-family dwelling. However, short-term rentals are not allowed for a single-family dwelling in the Township. Therefore, the use of the Property as a short-term rental is not grandfathered as any use of the Property in that manner was never allowed by the Township in the first place under its Zoning Ordinance.

A. Short-term rentals have never been allowed by the Zoning Ordinance, as determined by the Township and interpreted in accordance with Michigan jurisprudence.

Short-term rentals are not generally consistent with single-family dwellings. In *Bauckham Trust v Petter*, the 48th Circuit Court found that short-term rentals were a "commercial" use because the dwellings were "essentially being treated like hotels for guests." Case no. 15-054455-CH (Mich 48th Circuit Court, April 8, 2016). Further, the district in question was zoned as a residential district, in which only specific types of commercial activity were permitted. Because short-term rentals were "commercial" and not listed as one of the few specific types of commercial activities allowed in the district, the court held that the use was "impermissible." *See also Enchanted Forest Prop Owners Ass'n v Schilling*, No. 287614, 2010 WL 866148, at *7 (Mich Ct App March 11, 2010) (holding that the "use of property to provide temporary housing to transient guests is a commercial purpose, as that term is commonly understood" and it therefore was prohibited by deed restrictions that only allowed "residential purposes").

Short-term rentals also cannot be justified by a broad, categorical definition for the overreaching term "dwelling" that does not apply to the single-family dwelling definition. In *Laketon Township v Advanse, Inc.*, the Michigan Supreme Court reviewed a zoning ordinance which included a broad definition of "dwelling" followed by a series of subcategories, one of which was "single family dwellings." 485 Mich 933; 773 NW2d 903 (2009). In that zoning ordinance, "Dwelling" was defined as the "residence or sleeping place of one or more persons," including "one-family, two-family, and multiple family dwellings, apartment-hotels, boarding and lodging houses." *Id.* at *4. Although the Court of Appeals determined that short-term rentals were permitted by the broad

definition of "dwelling," *id.*, the Supreme Court subsequently reversed that decision. 485 Mich at 1. In doing so, the Court made a distinction between the broad definition of "dwelling" and the subcategory of "single-family dwelling"—holding that the "more expansive definition of 'dwelling' did not apply to each subcategory listed below, and, more specifically, it did not apply to single-family dwellings." *Id.* Therefore, despite the expansive definition of "dwelling," the Court held that short-term rentals were prohibited under that zoning ordinance.

Just as in *Laketon Tp*, the Township's Zoning Ordinance includes a general and expansive definition of "dwelling" which does not apply to the "single-family dwelling" subcategory, so the "dwelling" definition cannot be used to validate short-term rentals as single-family dwellings. The Township's Zoning Ordinance contains definitions and classifications which are nearly identical to the zoning ordinance in *Laketon*, which the Supreme Court held did not allow short-term rentals. The Township's Zoning Ordinance defines dwelling as "any building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one (1) or more Families, but not including Motels or tourist rooms." The Township's Zoning Ordinance then lists a series of subsets of "Dwellings," one of which is the "Single Family Dwelling"—defined as "a Building for use and occupancy by one (1) Family only." Just as the broad definition of "dwellings" in *Laketon* did not apply to the subset of "single-family dwelling," this Township's broad definition of dwelling also does not apply to single-family dwellings in the Township and allow them to be used for short-term rental purposes. The term "temporary" in the dwelling definition does not apply to single-family dwellings—the most restrictive form of a dwelling—and it cannot be used to validate short-term rentals as a single-family dwelling.

Short-term rentals have never been allowed under the Township's Zoning Ordinance. Highlighting the word "temporary" in the definition of "dwelling" is unpersuasive, because "temporary" does not apply to the single-family dwelling definition in question. The fact that there was "nothing" in the Zoning Ordinance to prohibit short-term rentals is similarly unpersuasive, as articulated by the Supreme Court in *Laketon Tp*. All the arguments raised by the Applicant to justify the short-term rental of her Property based on the fact that it was allowed by the Zoning Ordinance are inaccurate.

B. Not only have short-term rentals historically been prohibited by the Township's Zoning Ordinance, but the Township also has not granted the Applicant any kind of permission to violate the Zoning Ordinance.

Neither the Township nor any one of its authorized representatives has ever permitted the use of short-term rentals in the Township in the R-1 District. Michigan caselaw is clear that "no official of a municipality, other than the legislative body itself or some public body charged with the responsibility, may bind the municipality in a zoning matter." *Nickola v. Grand Blanc Tp*, 47 Mich App 684; 209 NW2d 803 (1973). Therefore, given that the Township's Zoning Ordinance does not permit single-family dwellings to be used as short-term rentals, and neither the Township Board nor any other public body (such as the Township Zoning Board of Appeals) approved the Applicant's use of her Property as a short-term dwelling, any such use was unlawful.

The Applicant's allegations that she obtained Township approval are unsupported, as the

"approval" she claims to have received was from Township employees with no authority to bind the Township. The Applicant alleges that her property management company spoke with someone at the Township who indicated that there were "no restrictions" prohibiting the Property's short-term rental. There are no further details provided about this conversation, so the Township cannot properly respond to this allegation.

Subsequently in the Memorandum, the Applicant identifies two individuals whom she claims provided additional authority to violate the Township's Zoning Ordinance, but she fails to articulate how either of these individuals would have had the authority to do so. The Applicant states that Mrs. Connie Meiste, an administrative employee, confirmed there were no restrictions on renting the Property on a short-term basis, and that Mr. Lukas Hill, the Township Zoning Administrator, essentially approved the use as well by having "no objection" to it. However, as Mrs. Meiste and Mr. Hill had no authority to bind the Township, even if one or both of them approved the use as claimed, the supposed approval would have been invalid.

The Applicant had other options to obtain permission to use her Property as a short-term rental. First, as only uses listed as permitted uses in the Zoning Ordinance are valid in the Township, she could have asked the Township if short-term rentals were permitted as single-family dwelling uses. The Township Zoning Board of Appeals would have had the authority to bind the Township in a Zoning Ordinance determination, and therefore, it could have determined that short-term rentals were consistent and appropriate as single-family dwellings. Second, if the Township Zoning Board of Appeals had determined short-term rentals were not permitted as short-term rentals, such rentals could have potentially qualified as "unclassified" uses under Section 354 of the Zoning Ordinance if the rentals qualified as a "sufficiently similar" use to those which are permitted, which would have provided the Applicant relief or at least a definitive answer as to whether the short-term rental activity was permitted. Finally, if all else had failed, the Applicant could have requested a variance to allow her to violate the Zoning Ordinance. She failed to do any of those things before assuming the short-term rental usage of her Property was permitted.

In order to exist as a legal prior non-conforming use, a use must have been originally "lawfully established." Given that short-term rentals have never been allowed in the R-1 District, nor did the Applicant ever request, let alone receive, permission to operate a short-term rental in violation of the Zoning Ordinance, the short-term rental of the Property was never allowed under the Zoning Ordinance and is not grandfathered as a permitted use now.

III. Both Ordinance No. 255 as well as Ordinance No. 257 are enforceable.

Ordinance No. 255 and Ordinance No. 257 were both properly adopted and do not violate any of the Applicant's constitutional rights. As the Michigan Supreme Court recently opined during review of a municipal ordinance, "[t]he decision to declare a legislative act unconstitutional should be approached with extreme circumspection and trepidation, and should never result in the formulation of a rule of constitutional law 'broader than that demanded by the particular facts of the case rendering such a pronouncement necessary.'" *Bonner v City of Brighton*, 495 Mich 209, 221; 848 NW2d 380 (2014) (quotation omitted). Further, "Every reasonable presumption or intendment must be indulged in favor of the validity of the act, and it is only when invalidity appears so clearly

as to leave no room for reasonable doubt that it violates some provision of the Constitution that a court will refuse to sustain its validity." *Id.* The Applicant cannot satisfy this burden, and both Ordinance No. 255 and Ordinance No. 257 are valid.

A. *Ordinance No. 255 does not violate substantive due process.*

Any alleged right to use the property for short-term rentals is not considered a fundamental Constitutional right, so the Township's alleged interference with that use must only be reasonably related to a legitimate governmental interest to pass a substantive due process challenge. *Bonner*, 495 Mich at 227. Therefore, it must only be "reasonably necessary for the preservation of public health, morals, or safety,"—and the Township enjoys the presumption that it is. *Id.* Further, to prevail, the Applicant would be required to establish something more than that a "debatable question" exists; she would be required to establish that Ordinance No. 255 bears no real and substantial relation to the preservation of public health, morals, or safety. *Robinson v Bloomfield Hills*, 350 Mich 425; 86 NW2d 166 (1957).

To establish a claim that Ordinance No. 255 and Ordinance No. 257 are an arbitrary and unreasonable restriction on the Applicant's property interest, she must show that the Township's adoption of these ordinances constitutes "an arbitrary fiat," leaving "no room for a legitimate difference of opinion concerning its reasonableness." *Bonner*, 496 Mich at 323. For the Applicant to prevail, the Township's decision must be a decision so arbitrary and capricious so as to "shock the conscience." *Mettler Walloon, LLC v Melrose Tp*, 281 Mich App 184, 198; 761 NW2d 293 (2008).

The Township's decisions to enact Ordinance No. 255 and Ordinance No. 257 are reasonably related to the preservation of public health, morals, and safety, and they were not arbitrary or capricious. In enacting Ordinance No. 255, the Township provided the following purpose: "These standards are intended to ensure compatibility with other permitted uses and the residential character of the neighborhoods in which Rentals are located." It also stated, "These standards are also to provide for an protect the welfare of full-time residents and to discourage the purchasing of property for vacation Rental uses."

In enacting Ordinance No. 257, the Township listed the following purposes: (1) commitment to preserving neighborhood residential character; (2) intent to minimize potential nuisances; (3) commitment to maintain small-town character and scenic beauty; (4) intent to protect residents and visitors from potentially negative or harmful effects that can arise with commercial rentals; and (5) intent to balance the concerns of short-term rentals with the financial benefits to property owners who engage in the commercial activity of short-term rentals.

Despite the multitude of reasons identified for the regulations, Applicant asserts that the Township enacted the regulations solely for the purpose of discouraging the purchasing of property for vacation rental uses. She provides no support for this allegation. The Applicant also cites the fact that the Township considered public opinion regarding this topic, stating her belief that the Township's decision was based on appeasing a small group of people. To the contrary, however, the Township properly considered the views of a wide variety of individuals on this matter, it held several public hearings and even more meetings, and it seriously considered this matter in full before

enacting Ordinance No. 255 and Ordinance No. 257.

The Applicant also cites a number of irrelevant factors as to whether the Township's decision is valid. Her contention that granting her a short-term rental permit will not violate the Township's interest in health, safety, and welfare is irrelevant. The Township could do a great many things that would not conflict with health, safety, and welfare—but it is not required to do those things. In addition, evidence that there may be alternative solutions that would also advance the Township's interests in public health, safety, and welfare is also irrelevant, as the Township has great latitude and authority to determine its chosen regulations. The Applicant argues that the Township had "far less invasive options," but again, the Township is not required to act in the least invasive way possible for the benefit of one individual or group. She also compares the Township with the City of Grand Haven, evidently to show that the City of Grand Haven has a much more real threat and needs to protect properties from being purchased for short-term rentals; however, the proper analysis does not consider comparisons with other municipalities.

Overall, the Applicant's disagreement with the Township's decision to prohibit short-term rentals in the R-1 District does not establish that Ordinance No. 255 or Ordinance No. 257 is unconstitutional. Despite all her arguments, the only relevant issue is whether the Township's regulation *reasonably relates* to public health, safety, and welfare; since it does, Ordinance No. 255 and Ordinance No. 257 are valid.

B. The Township has not violated the equal protection clause.

A violation of equal protection is found when members who are equally situated are treated differently. See *City of Cleburne v Cleburne Living Ctr, Inc.*, 473 US 432, 439; 105 S Ct 3249 (1985). As there is no protected class or fundamental right involved in this situation, the Township's actions simply must pass the rational basis test. *Barrow v City of Detroit Election Comm'n*, 301 Mich App 404, 419–20; 836 NW2d 498 (2013). To prove a violation, the Applicant would have to show a lack of rational basis by disproving "every conceivable basis which might support" the government action or by demonstrating that the challenged governmental action was motivated by animus or ill-will." *Warren v City of Athens*, 411 F3d 697, 711 (6th Cir 2005) (citation omitted).

Not only are renters and homeowners *not* similarly situated, but the Township's decision to classify and treat them differently is also allowable. Even Michigan courts and the Michigan legislature recognize a difference between owners and renters. It is entirely valid to regulate short-term rentals differently than typical single-family dwellings or typical rental situations. Furthermore, as described above, the Township's adopted regulations are reasonable and rationally related to a governmental interest.

C. The Township is not involved in a taking of the Applicant's Property.

Michigan courts divide "takings" claims into several different types of situations. A taking is recognized when the landowner is deprived of *all* economically beneficial or productive use of the property or when the government physically and permanently invades any portion of the property. *Dorman v Tp of Clinton*, 269 Mich App 638, 646, 714 NW2d 350 (2006). Michigan courts also

recognize the United States Supreme Court's balancing test from *Penn Central* for situations when the government's actions merely diminish the landowner's ability to freely use the land. This balancing test considers: (1) the character of the government action; (2) the economic effect of the regulation on the property; and (3) the extent by which the regulation has interfered with district investment-backed expectations. *Dorman*, 269 Mich App at 646. The Applicant seems to concede that she has not been deprived of all economically beneficial or productive use of her Property, nor has the Township physically invaded it, so the Township assumes her argument is based on the *Penn Central* standard.

In articulating this standard, the Michigan Court of Appeals has held:

Penn Central and its progeny require that our courts consider the following factors in deciding whether a "regulatory taking" claim is compensable: (1) what is the average reciprocity of advantage, in other words, is the aggrieved property owner singled out to pay for the public good, or is the land-use regulation so universal and ubiquitous that the benefits and burdens of the land-use regulation fall relatively equally among all, including the complaining party; (2) what use could the landowner reasonably expect to make of the land given the state of the land-use regulations at the time of acquisition (as part of this inquiry, it is necessary to take into account whether the landowner knew, or should have known, of the land-use regulation at the time of purchase); and (3) did the specific, challenged application of the land-use regulation leave the property owner valuable land use rights or did it instead render the land virtually worthless?

K & K Constr, Inc. v Dep't of Envtl Quality, 267 Mich App 523, 528–29; 705 NW2d 365 (2005).

With respect to the first factor articulated by the Court of Appeals, not only are Ordinance No. 255 and Ordinance No. 257 legitimate and reasonable, as articulated in the above sections, but they also establish balanced, reciprocal regulations, that do not burden the Property more than they burden other property in certain residential districts of the Township, regarding short-term rentals. With respect to the second and third factors, the Applicant can still make a substantial amount of income from renting the single-family dwelling, evidenced by the fact that it is currently rented. The Applicant cites a series of improvements she financed in order to turn the Property into a rental, but she fails to identify how or why those improvements were necessary only to make the Property a short-term rental; indeed, the Township has no record of any permits issued for such improvements, to the extent that they were made at all. Further, the fact that the Township substantially limits other commercial activities in the R-1 District is also irrelevant to this analysis. As the Township is not required to provide the Applicant with the highest and best use available to the Property, and there are still significantly valuable uses available to her, the Township has not taken the Property.

On the basis of all of the above, the Applicant's arguments are rejected and her appeal is denied.

SLT 1632 Board Resolution and Report re Reaume Appeal BLANKS



RECEIVED by MSC 2/5/2020 3:44:51 PM

January 8, 2016

Spring Lake Township
101 South Buchanan St
Spring Lake, MI 49456

Attn: Lukas Hill, Development Director
John Nash, Supervisor
Gordon Gallagher, Township Manager

RE: 18190 Lovell Road, Spring Lake, MI

Gentlemen:

Please be advised that this office writes in support and on behalf of the interests of seven (7) separate homeowners on Lovell Road in Spring Lake Township. In that regard, I have been asked to bring to your attention a serious violation of the Spring Lake Township Zoning Ordinance effective April 30, 2010. The home at 18190 Lovell Rd has been converted into a two unit building in violation of the R1 zoning code, and is being rented as a vacation rental property for short term use by transients which violates the defined R1 zone limited use as a residential area.

Lovell Road and, in particular, the property located at 18190 Lovell Road is located in an area zoned R-1 which is designated for low density residential use (see Exhibit 1). According to the zoning ordinance, low density residential is intended for low density single family use (Article 4-12, Paragraph 407).

The ordinance also includes definitions of "Dwelling: single family" as a building designated for use and occupancy by one (1) family only (Article 2-9, Paragraph 205) and "family" as a single individual or individuals, domiciled together, whose relationship is of a continuing non-transient domestic character

and, specifically excludes “individuals whose relationship is of a transitory or seasonal nature, or for a limited duration” (Article 2-10, Paragraph 207). While the term “transient” is not specifically defined by the Township Ordinance, the term has a common meaning suggesting “lasting only a short time” or “a person who is staying in a place for only a short time”. This interpretation is supported by the Ordinance’s definition of the term “Hotel” as a facility offering “transient lodging” accommodations to the general public (Article 2-13, Paragraph 209).

The property at 18190 Lovell Road, has recently been converted into a multi-unit vacation rental property. As can be seen by the information attached as Exhibit 2, this property has been converted into a two unit structure which is available for rental to the general public on a daily or weekly basis.

Specifically, the listing documents (Exhibit 2) provide:

1. The “upper 4 bedroom” unit is a listing for the main floor living area “ONLY” which “rents separately from the lower level”. This unit features an attached, heated garage and is separate from the lower unit which features a “2 stall detached garage and private entrance”.
2. The “lower unit” is a 3 bedroom rental for the “walk out lower level ONLY that rents separately from the main level”.

Further, one can reasonably conclude from the information on HomeAway.com (Exhibit 3) that:

1. Monthly rates are available during off season when demand is low. (See upper 1 month January rental)
2. Monthly rates are not available during the summer vacation periods, (See upper 1 month June rental)
3. Renters are referred to as “guests” who must bring their own meals, not as “tenants” who would obviously rent as a residence and not be likely to make this mistake. (See upper instruction to guests)

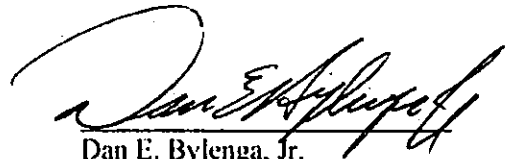
4. Renter review 1 refers to "with friends" suggesting that although the unit sleeps 12, there were more people spending time on the property and point during the rental period. (See upper renter review 1 from June 2015)
5. Renter review 2 refers to "the team" suggesting that the rental may have been a corporate organizational group, not a family. (See upper renter review 2 from June 2015)
6. These reviews are also proof the unit was actually rented and occupied during 2015 in violation of the zoning ordinance. They also may explain why the neighbors observed so many people on the point (lake front) partying during the day and late into the night as well as the many cars and multiple boat and Jet Ski trailers parked in the drive and on the grass.

Clearly, the owner of 18190 Lovell Road is engaged in a non-conforming use of the property and, in addition, has actually converted the property into a non-conforming structure. The house has been divided into two (2) separate rental units (a duplex) which are being advertised for and actually rented to separate groups during the same period of time for daily and/or weekly rentals. In fact, the property by both use and structure is no longer a single family dwelling where individuals are domiciled together in a continuing non-transient relationship as required by the Township Ordinance as its primary use has become daily and weekly rentals to "individuals whose relationship is of a transitory or seasonal nature".

My clients (six parcels within 300 feet and one parcel within 350 feet of the property) believe that this situation constitutes multiple violations of the Township Ordinance and is destroying the residential character of the neighborhood. As such, they are requesting that the Township investigate this situation and enforce its ordinance by requiring the owner(s) of 18190 Lovell Rd to bring the building into conformance and refrain from the activity described above.

Finally, both my neighbors and my office are available to discuss this matter and/or assist in the enforcement process. Any and all questions or comments should be directed to me personally and will receive a prompt response.

Very truly yours,



Dan E. Bylenga, Jr.
Chase & Bylenga, PLLC

Cc Ronald J. Bultje
Scholten Fant

2020 3:44:51 PM

CHASE & BYLENGA^{PLC}

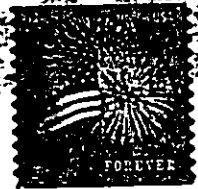
77 Monroe Center NW, Suite 507
Grand Rapids, MI 49503

GRAND RAPIDS MI 495

13 JAN 2016 PM 4:1

Happy

Holidays



Spring Lake Township
101 South Buchannan St.
Spring Lake, MI 49456

RECEIVED

JAN 13 2016

SPRING LAKE TOWNSHIP

49456200401



"Where Nature Smiles for Seven Miles"



spring lake township

106 South Buchanan
Spring Lake, Michigan 49456
Phone: (616) 842-1340
Fax: (616) 842-1546

February 2, 2016

Ms. Susan Schnelder Penning
18190 Lovell Road
Spring Lake, MI 49456

RE: Illegal Multifamily Dwelling at 18190 Lovell Road

Dear Ms. Penning,

Information recently provided to Spring Lake Township indicates that the subject property under your ownership is in violation of Spring Lake Township Ordinances as it appears that the single family dwelling at the subject location has been modified into a multifamily dwelling (enclosed). The subject property is zoned R-1 Low Density Residential and does not permit two family or multifamily buildings.

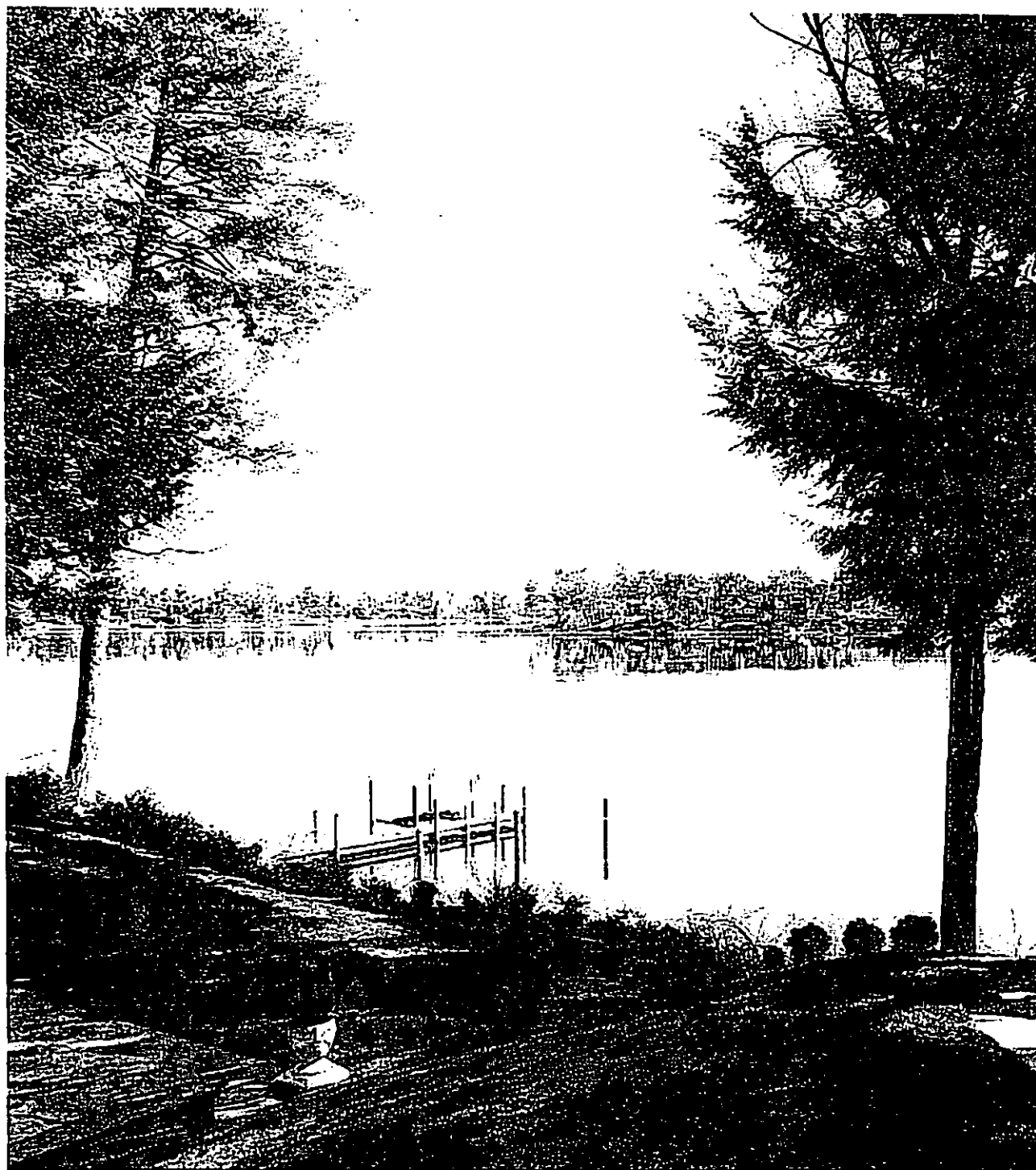
To avoid further enforcement action, which may include a civil infraction citation, please contact this office at 844-2110 by February 8, 2016, to review this apparent violation.

Sincerely,

Lukas Hill, AICP
Community Development Director

Cc: Gordon Gallagher, Township Manager
Dan E. Bylenga, Jr.

Enc.





Grand Haven House Rental Photos and Description

Executive Home on Main Body Of Spring Lake, Sand Beach, Dock (2 units)

'Point of Viewe' is a sprawling executive ranch home, built in 1954, and situated on a beautiful lot with 170 feet of water frontage (60' beach) on the main body of Spring Lake with boat dock, lush lawns and mature shade trees! The home is featured as either the entire 7 bedroom, 4.5 bath with 5200 Square Feet of living space or two separate units rented separately. If you wish to rent the entire home, please request pricing.

This listing is for the main floor living area (3913304) ONLY which rents separately from the lower level. It features 2,677 square feet of open living space with wonderful views of the Lake. The main floor has a large Living Room overlooking the Lake with pass thru gas fireplace (with Library/Office), Formal Dining Room, large Kitchen, Breakfast Nook with door to Covered Patio, cozy Library/Office with gas fireplace shared with living room, four large bedrooms (queen, queen, double/trendle, 2 bunk beds), 2-1/2 baths, and main floor laundry room with Washer/Dryer. The kitchen with center island features a large pantry, cherry cabinets, granite counter tops, and stainless appliances. The private, large Master Suite with views of the Lake includes an on-suite bath with double vanity, step in shower and plenty of closet storage. There are two additional large patio seating areas overlooking the Lake and dock. 2 Stall heated attached garage with opener.

More Details

Suitability:

- Long-term Renters Welcome
- Minimum Age Limit for Renters
- children welcome

- non smoking only
- pets not allowed
- wheelchair accessible

• **\$631**

- avg/night
- Detailed Price

• _____

- Learn how to pay safely

Sleeps **12**

Bedrooms **4**

Bathrooms **2**

Half Baths **1**

Property type **house**

Minimum Stay **2 - 30 nights**

- **Contact the Manager**

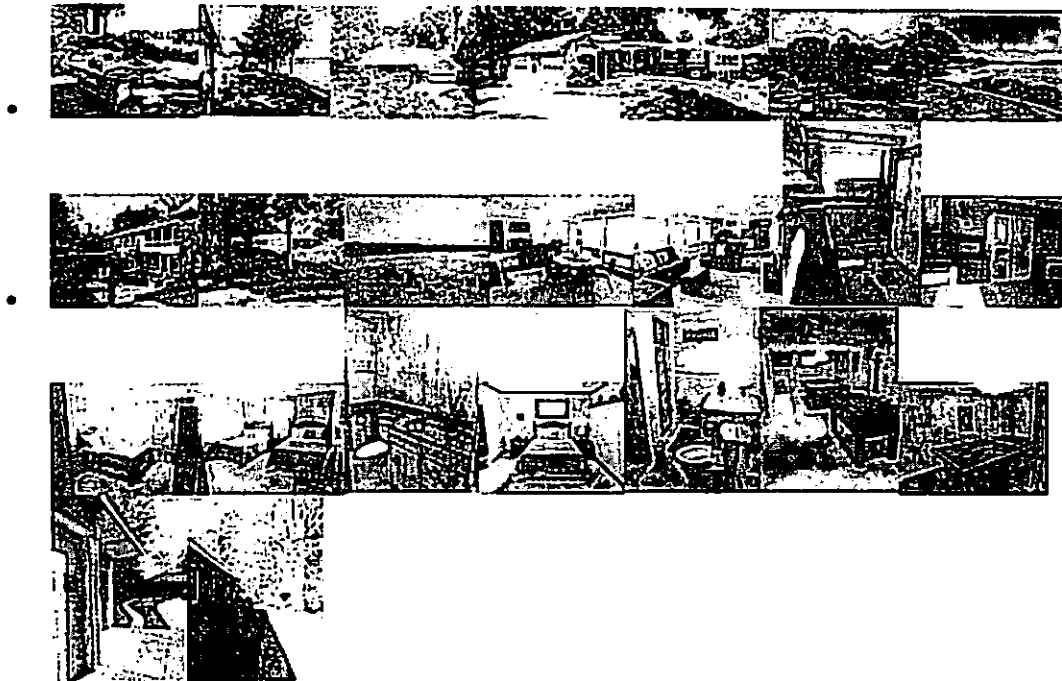


- *Capstone Property Management*

- Member since: 2015
- Speaks: english



The patio view of Spring Lake 1 of 22



\$525
avg/night

Sleeps 8
Bedrooms 3
Bathrooms 2
Property type house
Minimum Stay 2 - 30 nights

Overview

Grand Haven House Rental Photos and Description

Executive Ranch on Spring Lake (2 units), 60' Beach, Shared Dock, sleeps 8

"Point of View" is a sprawling executive ranch home, built in 1954, is situated on a beautiful lot with 170 feet of water frontage on the main body of Spring Lake with lush lawns and mature shade trees! This home can also be rented in its entirety as a 7 bedroom, 4.5 bath, 5200 square feet (please ask for pricing).

This listing is for the walkout lower level ONLY that rents separately from the main level. It features 2560 square feet of finished living space. This includes 3 bedrooms, 2 baths, laundry, kitchen, dining and family room with wood burning fireplace and sliders to large patio overlooking the lake, and game rooms with Ping Pong, Pool Table, and Fooz Ball. There is a 2 stall detached garage with private entrance.

The home is located in a great area off US-31 offering privacy and close convenience to the bike path, Spring Lake and downtown Grand Haven, schools, and shopping. Other: underground sprinkling, shared 170' lake frontage with 60' sandy beach frontage on main body of spring lake, shared boat dock (draws 9' and can accommodate large boat).

The main floor living area rents separately (Homeaway 3913304) and features 2,677 square feet of open living space with wonderful views of the lake. The main floor has a large living room overlooking the lake with pass thru gas fireplace (to office/library), formal dining room, large kitchen, breakfast nook with door to covered patio, cozy library/office with gas fireplace (pass thru to Living Room), four large bedrooms, 2-1/2 baths, and main floor laundry room with washer/dryer. The kitchen with center island features a large pantry, cherry cabinets, granite countertops, and stainless appliances. The private, large master suite with views of the lake includes an on-suite bath with double vanity, step in shower and plenty of closet storage. There are two additional large patio seating areas overlooking the lake and dock. There is a two stall attached heated garage with door opener.

Please request pricing if you wish to rent the entire home.

More Details

Suitability:

- Long-term Renters Welcome
- Minimum Age Limit for Renters
- children welcome
- non smoking only
- pets not allowed
- wheelchair inaccessible

2-9-16

RECEIVED by MSC 2/5/2020 3:44:51 PM

Mr. Lukas Hill:

10-226-009

R. E. 18190 Lowell

I have instructed Capstone to
modify my advertising, for summer renting,
to clarify single-family home.

Please see enclosed proof.

Sincerely,

Susan Penning

**2 Kitchens, 7 Bedrooms, 4.5
Baths. On an all sports Lake.**

\$8,280

7 night total

Detailed Price

Your dates are Available!

Request to BookSend a Message

Learn how to pay safely

Contact the Manager



Capstone Property Management

Member since: 2015

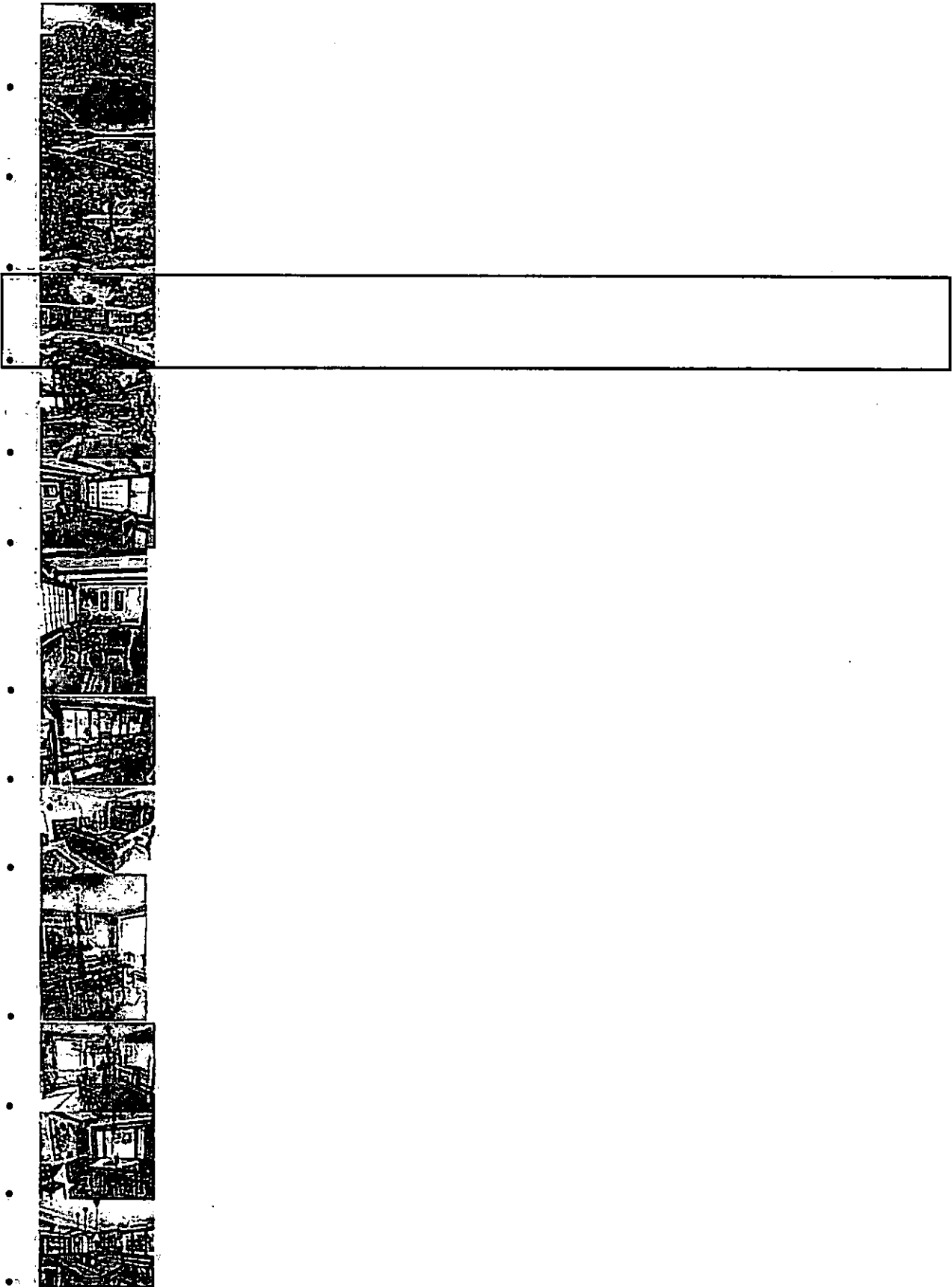
Speaks: english

Request to Book

Response time:

Within a day

RECEIVED by MSC 2/5/2020 3:44:51 PM





Grand Haven House Rental Photos and Description

Executive Home on Main Body Of Spring Lake, Sand Beach, Dock with diving board!

'Point of Viewe' is a sprawling executive ranch home, built in 1954, and situated on a beautiful lot with 170 feet of water frontage (60' beach) on the main body of Spring Lake with boat dock, lush lawns and mature shade trees! The home is featured as 7 bedroom, 4.5 bath with 5200 Square Feet of living space.

The main floor has a large Living Room overlooking the Lake with pass thru gas fireplace (with Library/Office), Formal Dining Room, large Kitchen, Breakfast Nook with door to Covered Patio, cozy Library/Office with gas fireplace shared with living room, four large bedrooms (queen, queen, double/trundle, 2 bunk beds), 2-1/2 baths, and main floor laundry room with Washer/Dryer. The kitchen with center island features a large pantry, cherry cabinets, granite counter tops, and stainless appliances. The private, large Master Suite with views of the Lake includes an on-suite

bath with step in shower and plenty of closet storage. There are two additional large patio seating areas overlooking the Lake and dock. 2 Stall heated attached garage with opener.

The walkout lower level features an additional 2560 square feet of finished living space. This includes an additional kitchen,, 3 bedrooms, 2 baths, laundry, kitchen, dining, family room with wood fireplace/indoor charcoal grill, and large patio overlooking the lake, and game room with pool table, ping pong table and foosball. 2 Stall Detached Garage.

The home is located in a great area offering privacy and close convenience to the bike path, Spring Lake and downtown Grand Haven, schools, shopping, and easy access to US-31. Other: underground sprinkling, 170' sandy beach frontage on main body of Spring Lake, boat dock (draws 9' and can accommodate large boat).

Hide Details

Suitability:

- Long-term Renters Welcome
- Minimum Age Limit for Renters
- children welcome
- non smoking only
- pets not allowed
- wheelchair accessible



Capstone Property Management (Property Manager)

Member since: 2015

Call Manager

Speaks: english

About Capstone Property Management



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Thank You

Your message has been sent.

You can send this page to up to five email addresses. Please separate each email address with a comma.

Friend's email
Send

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Executive Home On Main Body Of Spring Lake, Sand Beach, Dock With Diving Board!

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- [Favorite](#)
- \$1,116** avg/night
Enter dates to see total

Confirmation within 24 hours

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Confirmation within 24 hours

Sleeps:	22
Bedrooms:	7
Bathrooms:	4
Half Baths:	1
Property type:	house
Minimum Stay:	3 - 6 nights



Julie Tardani

Member since: 2015

Speaks: english

[Request to Book](#) [Request to Book](#)

[Contact Me](#)

Response time: Within a few days

Response rate: 100%

Calendar last updated: April 29, 2016

[Call Manager](#)

Add vacation protection services to your booking

Three services to protect your trip:

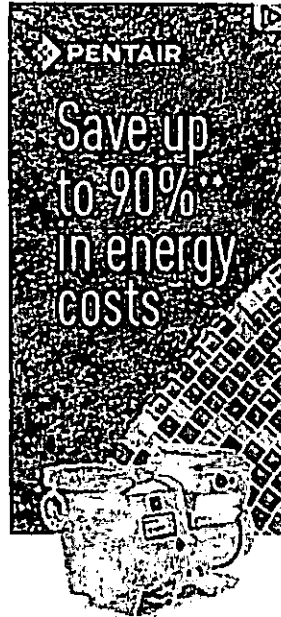
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PUMP UP
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**Executive Home On Main Body Of Spring Lake, Sand Beach, Dock With
Diving Board!**

Aerial view of the property and docks.

1 of 23

\$1,116 avg/night
Enter dates to see total

Confirmation within 24 hours

FEEDBACK

87a

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Confirmation within 24 hours

Sleeps	22
Bedrooms	7
Bathrooms	4
Half Baths	1
Property type	house
Minimum Stay	3 - 6 nights



Your booking will be backed by our Book with Confidence Guarantee when you complete your reservation online and finalize payment on HomeAway.

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Photos

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Partner Offers

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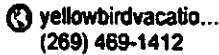
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218 S Beacon Blvd, Grand Haven, MI



Grand Traverse Resort - Get Up & Go - GrandTraverseResort.com
Adventure Awaits at Grand Traverse Resort & Spa.



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Boyne Mountain Resort - BOYNE.com
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Vacation Cabin Rentals - Lake Vermillion Cabins - vermillioncabins.com
3 Sisters Cabin



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Cottage Vacation - webcrawler.com
Search multiple engines for cottage vacation



Northern MI Cabin Rentals - Updated Cabin Resort on The Lake
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Contact the Manager

Tell the manager when you would like to travel.

Arrival

Departure

☐ My travel dates are flexible.

First Name*

FEEDBACK

Last Name*	
United States (+1)	▼
Phone Number	
Email Address*	
Adults	2
Children	0
Message to manager	^ ▼

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x	

Tell us about your trip, then book it

This property requires that you message the manager to complete your booking request.
Enter dates to calculate a quote

Arrival	Departure
---------	-----------

Adults		Children	
--------	--	----------	--

Continue booking

Continue booking



Close	
Continue booking	Continue booking

Close

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FEEDBACK

Connie Meiste

From: SpringLakeTwp.org [noreply@springlaketwp.org]
Sent: Wednesday, August 10, 2016 7:17 PM
To: Connie Meiste
Subject: Ordinance Enforcement Website Form

10-226-009

From: Larry McLaughlin <larry18210@gmail.com>
Address: 18210 Lovell Rd.

Date of Violation: Rentals started mid 2015 and continue to this day.

Violation: The property owner at 18190 Lovell Road moved out of the house and is operating a year-round commercial business, renting the property on a short-term basis to transients. The house is rented through Capstone, a property management company in Grand Haven, for periods as short as two days. This is a violation of Spring Lake Township's Zoning Ordinance for the R1 zoning district (Low Density, Single-Family).

We request that the township immediately stop this violation in order to preserve the intended character of the R1 zoning district.

Submitted by me on behalf of property owners surrounding the rental and numerous property owners in R1 zones.

--
This e-mail was sent from a contact form on Spring Lake Township
(<http://www.springlaketwp.org>)

Lukas says nothing we can do
about it as yet.

Spring Lake Township

ZONING ORDINANCE

Effective April 30, 2010



"Where Nature Smiles for Seven Miles"



spring lake township

106 South Buchanan
Spring Lake, Michigan 49456
Phone: (616) 842-1340
Fax: (616) 842-1546

In professional association with: **Williams & Works**
engineers - planners - surveyors

Updated To Include Zoning Text Amendment Ordinance No.'s:			
223	Adopted October 11, 2010	245	Adopted January 26, 2015
224	Adopted October 11, 2010	246	Adopted February 9, 2015
226	Adopted June 13, 2011	247	Adopted July 13, 2015
230	Adopted February 27, 2012	248	Adopted July 13, 2015
232	Adopted September 10, 2012	249	Adopted July 13, 2015
234	Adopted February 11, 2013	254	Adopted October 10, 2016
237	Adopted November 11, 2013		
241	Adopted September 8, 2014		
242	Adopted September 8, 2014		
243	Adopted September 8, 2014		

curve, at the two (2) points where the Lot lines meet the curve, form an interior angle of one hundred thirty-five (135) degrees or less.

Country Club: Land area and Buildings containing Golf Courses, recreational facilities, a clubhouse, and customary Accessory Uses, open to only members and their guests.

205 “D”

Day Care Center or Child Care Center: A facility, other than a private Dwelling, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child Care Center or Day Care Center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a Child Care Center, Day Care Center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child Care Center or Day Care Center does not include any of the following:

- (1) A Sunday school, a vacation Bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three (3) hours per day for an indefinite period, or not more than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12)-month period.
- (2) A facility operated by a religious organization where children are cared for not more than three (3) hours while persons responsible for the children are attending religious services.

Day Care, Family: A private Dwelling in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the Family by blood, marriage, or adoption. Family Day Care home includes a Dwelling that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Day Care, Group: A private Dwelling in which more than seven (7) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the Family by blood, marriage, or adoption. Group Day Care home includes a Dwelling that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Decibel: A unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dBA weighted scale as defined by the American National Standards Institute.

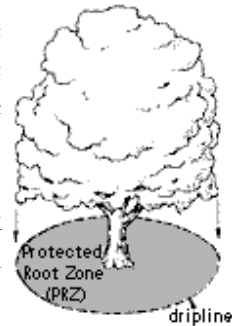
Decommissioning: The process of terminating operation and completely removing a WET(s) and all related Buildings, Structures, foundations, access roads, and equipment.

Density: The number of Dwellings per unit of land.

Detached: Standing by itself, not connected by any wall or other Structure.

Diameter Breast Height (D.B.H.): The diameter in inches of a tree measured at four and one-half (4½) feet above the established grade.

Dredge Material Storage, Onsite: The placement of dredge material in an upland location adjacent and contiguous to the water body where dredging occurs, and under the same ownership.



Dripline: The line farthest away from but surrounding the trunk of a tree, on the ground underneath the tree, onto which moisture drips straight down from the tree (i.e., the tree canopy). Alternatively, the Dripline shall be a circle, with the tree at the center, whose radius equals one (1) foot per inch of caliper at the tree's D.B.H. In the event the above two measurements are not the same, the lesser measurement shall be used. The area within the Dripline is considered the protected root zone.

Drive-Through Establishment: A Principal Use or Accessory Use of an establishment that by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their Vehicles.

Dwelling: Any Building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one (1) or more Families, but not including Motels or tourist rooms. Subject to compliance with the requirements of Section 322, a Mobile Home shall be considered to be a Dwelling.

- (1) Dwelling, Single-Family: A Building designed for use and occupancy by one (1) Family only.
- (2) Dwelling, Two-Family: A Building designed for use and occupancy by two (2) Families only and having separate living, cooking and eating facilities for each Family.
- (3) Dwelling, Multi-Family: A Building designed for use and occupancy by three (3) or more Families and having separate living, cooking and eating facilities for each Family.

Dwelling Unit: One (1) room or a suite of two (2) or more rooms designed for use or occupancy by one (1) Family only.

206 “E”

Eating and Drinking Establishment: A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.

Educational Institution: Any Building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge, including a preschool, elementary, middle, or high school, college or university, trade school and the like, whether public or private, that meets state requirements, where applicable.

Emergency Access: An access that does not serve Buildings and is being provided for emergency Vehicles only and is not intended for public use, such as access into natural areas.

207 “F”

FAA: The Federal Aviation Administration.

Family: A single individual or individuals, domiciled together whose relationship is of a continuing, non-transient, domestic character and who are cooking and living together as a single, nonprofit housekeeping unit, but not including any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students, or other individuals whose relationship is of a transitory or seasonal nature, or for anticipated limited duration of school terms, or other similar determinable period of time.

Farm, General: Any tract of land, devoted to general agricultural activities not involving Farm Animals or Livestock, for general commercial purposes, such as field crops, truck farming, orchards and Nurseries. Farms may include related Dwelling Units, customary barns, and similar Buildings, and “U-pick” operations where customers may pay for and pick their own produce.

Farm Animals or Livestock: Animals customarily kept by humans for the purpose of providing food, clothing or work, and which are customarily raised for profit, including but not limited to, equine, bovine, ovine, caprine, porcine, fowl, and bees and as further defined in Act 93 of 1981.

Farm Buildings: Any Building or Structure, other than a Dwelling, used or maintained on a farm which is essential and customarily used on farms in the pursuit of agricultural activities.

Farm, Specialized: Any tract of land used for specialized animal operations, such as apiaries, chicken hatcheries, poultry farms, dairying, beef farms, animal husbandry, stockyards, livestock feed Lots, swine farms or establishments keeping fur bearing animals or game or operating fish hatcheries.

Farmer's Market: A market usually held out-of-doors where farmers can sell produce and plants and food stuffs to the public.

Fence: A barrier for the purpose of enclosing space or separating lots, composed of (1) masonry or concrete walls, excluding retaining walls; or (2) wood, metal, or concrete posts connected by solid wood or rigid vinyl boards, wrought iron rails, or chain links, or other material with similar purpose, strength and durability approved by the Zoning Administrator.

FCC: The Federal Communications Commission.

Financial Institution: Commercial establishments such as banks, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodities exchanges, and insurance agencies.

Floor Area: The sum of the area within the inside perimeter of the exterior walls of the Building or Structure under consideration and excluding areas of Basements, unfinished attics, Attached garages or carports, breezeways, and enclosed and unenclosed porches.

Floor Area, Gross: The sum of the area within the inside perimeter of the exterior walls of the Building or Structure under consideration including the several floors of the Building, including those areas used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers; and including those areas which are used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities.

Floor Area, Usable: The sum of the area within the inside perimeter of the exterior walls of the Building or Structure under consideration; including those areas used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers; and not including those areas which are used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities.

Frontage: That side of a Lot, Building or Structure facing a public Street, private road or waterfront.

Lot Width: The horizontal straight-line distance between the side Lot lines, measured between the two (2) points where the front Setback line intersects the side Lot lines.

Low Impact Design or Low Impact Development (LID): An innovative stormwater management approach with a basic principle that is modeled after nature: manage rainfall at the source using uniformly distributed decentralized micro-scale controls.

214 “M”

Machine Shop: A business in which metal objects are processed, reduced, or finished by turning, shaping, planning, or milling by machine-operated tools.

Maneuvering Aisle: An area within a Parking Lot designed to provide ingress and egress to Parking Spaces.

Manufacturing and Processing: A series of operations, in a continuous and regular action or succession of actions, taking place or carried on in a definite manner associated with chemical or mechanical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, liquors, food and fiber products, minerals and compounds, and such related activities as storage, packaging, shipping and scrapping.

Marihuana, also known as Marijuana, also known as Cannabis: The term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, Public Act 368 of 1978, MCL 333.7106, as referred to in Section 3(d) of the MMMA, MCL 333.26423(d). Any other term pertaining to Marihuana used in this Ordinance and not otherwise defined shall have the meaning given to it in the MMMA or the General Rules of the Michigan Department of Community Health issued in connection with the MMMA.

Marina: A place where five (5) or more boats or water craft are stored, docked, moored, anchored or otherwise located for use, loading, servicing or any other purpose.

Mechanical Equipment: Equipment, appurtenances or devices installed to support the use or Building, including without limitation, heating, ventilation and air conditioning equipment; inconsequential Antennas; electrical, plumbing, and power generating devices; and other service facilities.

Medical Use of Marihuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of Marihuana or paraphernalia relating to the administration of Marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the MMMA.

Medium Wind Energy Turbine (MWET): A Tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, Nacelle, rotor, Tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The MWET has a nameplate capacity that does not exceed two hundred fifty (250) kilowatts. The Total Height does not exceed one hundred fifty (150) feet.

MMMA: The Michigan Medical Marihuana Act; Public Act 2008, Initiated Law, as amended.

Mineral Removal: The removal of sand, gravel, rock, clay and other minerals from the ground, including a facility, property, or portion thereof designed, constructed, or used for the commercial open pit or subterranean extraction of sand, gravel or other minerals. This term also includes quarrying, groundwater diversion, soil removal, milling and crushing, and other preparation customarily done as part of a mining activity.

Mixed Use Development: A development of a tract of land, Building, or Structure with a variety of complementary and integrated uses as permitted by the applicable Zoning District.

Mobile Home: A Structure, transportable in one (1) or more Sections, which is built on a chassis and designed to be used as a Dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the Structure; excluding, however, a Vehicle designed and used as temporary living quarters for recreational, camping or travel purposes, including a Vehicle having its own motor power or a Vehicle moved on or drawn by another Vehicle.

- (1) Single Wide: a Mobile Home with longitudinal width of no greater than fourteen (14) feet for its full length.
- (2) Double Wide: a combination of two (2) Mobile Homes designed and constructed to be connected along the longitudinal axis, thus providing double the living space of a conventional Single Wide unit without duplicating any of the service facilities such as kitchen equipment or furnace.

Mobile Home Park: An area where three or more mobile homes are parked or intended to be parked, designed or intended to be used as living facilities for one (1) or more Families.

Mortuary/Funeral Home: A Building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith prior to burial or cremation.

Motel: A Building or group of Buildings on the same Lot, whether Detached or in connected rows, containing sleeping or Dwelling Units which may or may not be independently accessible from the outside with garage or Parking Space located on the Lot and designed for, or occupied by transient residents. The term shall include any Building or Building groups designated as a Hotel, motor lodge, transient cabins, cabanas, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

Motor Vehicle: Every Vehicle which is self-propelled.

Multi-Tenant Commercial Establishment: A Building housing more than one (1) commercial business operated under common management, or a unified grouping of individual businesses, served by a common circulation and Parking Lot.

Multi-Tenant Industrial Establishment: A Building housing more than one (1) industrial business operated under common management, or a unified grouping of individual businesses, served by a common circulation and Parking Lot.

215 “N”

Nacelle: The encasement which houses all of the generating components, gear box, drive tram, and other equipment.

Net-Metering: A special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power Grid.

Night Sky Friendly Lighting: Lighting systems that restrict light pollution into the atmosphere improving or maintaining night sky clarity.

Nude Model Studio: Any place where a person who displays Specified Anatomical Areas is provided in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but not including:

- (1) An Educational Institution funded, chartered, licensed or recognized by the State of Michigan; or
- (2) A private artist's studio where the private artist employs or contracts with the model to be observed and depicted solely by the private artist.

- B. Dwellings located within an Open Space Preservation Development shall comply with the provisions of Section 336.

334 MOVING OF BUILDINGS

No existing Building shall be moved into the Township or moved from one (1) Lot in the Township to another Lot in the Township unless a Special Land Use is obtained from the Planning Commission per Section 932.

No existing Building utilizing balloon construction shall be moved into the Township or moved from one (1) Lot in the Township to another Lot in the Township in any event. This Section shall not apply to the moving of Mobile Homes or other off site constructed Buildings.

335 NONCONFORMITIES

- A. Purpose and Intent. Nonconforming Buildings, Structures, Lots, and uses which do not conform to one (1) or more of the provisions or requirements of this Ordinance or any subsequent amendments thereto, but which were lawfully established prior to the adoption of this Ordinance or subsequent amendment, may be continued. However, no such Building, Structure or use shall be enlarged or extended, and no nonconforming Lot created or made more nonconforming, except as provided herein. It is the intent of this Section to reduce or remove the number of nonconforming occurrences in the Township.
- B. Nonconforming Buildings or Structures.
1. A nonconforming Building or Structure may be continued provided it remains otherwise lawful. A nonconforming Building or Structure shall not be enlarged or altered in any way, which increases the degree of nonconformity. Degree of nonconformity shall include increasing the extent of the nonconformity or expanding the Area or volume of the portion of the Building or Structure that is nonconforming.
 2. The nonconforming portion of any Building or Structure shall not be repaired or restored in a manner that will extend its natural life. Prohibited is the replacement of primary structural items including, but not limited to, the foundation, floor joists, bearing walls and rafters with the exception of Section 6 below.
 3. If a nonconforming Building or Structure is moved it shall thereafter conform to the regulations for the Zoning District in which it is located after it is moved.
 4. Any expansion of a nonconforming Building or Structure shall not occupy any portion of the Lot which is necessary for meeting any off-Street parking requirements.
 5. A nonconforming Building or Structure containing a nonconforming use shall not be expanded unless the use has been changed to a conforming use and meets the other applicable requirements of this Article.
 6. Termination by Destruction: If a nonconforming Building or Structure is damaged or destroyed to the extent of fifty (50) percent or greater of its true cash value by fire, flood, wind or other calamity, its reconstruction and subsequent use shall only occur in

conformance with the applicable Zoning District and the requirements of this Ordinance.

C. Nonconforming Lots.

1. A principal Building and allowable Accessory Buildings may be erected on a nonconforming Lot provided all requirements of this Ordinance are met, except for the Lot Area requirement.
2. Contiguous nonconforming Lots under the same ownership: If two (2) or more contiguous Lots, or portions of Lots, are under the same ownership and do not individually meet the Lot Width or Lot Area requirements of the applicable Zoning District, then those contiguous Lots, or portions of Lots shall be combined to meet or more nearly meet the minimum Lot requirements of the applicable Zoning District. No Lot shall be used or divided in a manner that diminishes compliance with the Lot requirements established for the Zoning District in which it is located.

D. Nonconforming Uses.

1. No nonconforming use of any Building or Structure or of any Lot shall hereafter be changed, extended or enlarged unless all of the following are true:
 - a. All extensions or enlargements may not exceed fifty (50) percent of the Area of the original nonconforming use.
 - i. To be allowed, the change, extension or enlargement must be authorized by the Planning Commission as a Special Land Use per Section 933.
 - b. A Two-Family Dwelling built before the adoption of this Ordinance shall be considered a conforming use and may be expanded, improved, or rebuilt as a conforming use.
2. The nonconforming use of a Building or Structure or of any Lot shall not be:
 - a. Re-established after discontinuance, vacancy, lack of operation or otherwise for a period of six (6) months; or
 - b. Re-established after it has been changed to a conforming use.

E. General Conditions. The following general conditions apply to all nonconforming Buildings, nonconforming Structures, nonconforming Lots, and nonconforming uses.

1. Change of Tenancy or Ownership: The tenancy or ownership of a nonconforming Building, Structure, Lot or use may be transferred or changed.
2. Normal Maintenance and Repairs: Normal maintenance and incidental repairs, including repair or replacement of non-bearing walls, fixtures, wiring or plumbing, may be performed on any nonconforming Building or Structure or any Building or Structure containing a nonconforming use.
3. Any Building or Structure shall be considered existing and lawful and for purposes of Article 335.B to have been in use for the purpose for which constructed if, on the effective date of this Ordinance, a Building Permit has been obtained therefore, or, if no Building Permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.

407 LOW DENSITY RESIDENTIAL-RESOURCE, R-1

A. Intent

The Low Density Residential-Resource District is intended for low-Density Single-Family uses that are primarily served with public water and public sanitary sewer. Significant Natural Features or attributes such as steep slopes, floodplains, riparian areas or other sensitive environmental attributes are present in this Zoning District. Single-Family Dwellings are predominant. Development in the R-1 District should be designed to limit impact on waterways and maintain the wooded character of the site through natural feature Setbacks and the protection of wooded areas.

B. District Standards

Any Building, Structure or modification thereof shall be in conformance with the following requirements.

Permitted Uses

- ◆ Accessory Buildings and Structures
- ◆ Adult Foster Care
- ◆ Anemometer
- ◆ Day Care Facility (Family)
- ◆ Dwelling, Single-Family
- ◆ Home Occupation
- ◆ Open Space Preservation (see Section 336)
- ◆ Park or Parkland
- ◆ Place of Public Assembly (small)
- ◆ SSMWET
- ◆ STMWET

Special Land Uses

- ◆ Day Care, Group
- ◆ Farm, General Subject to Section 918
- ◆ Keeping of Farm Animals Subject to Section 925
- ◆ Outdoor Storage of Dredge Material Subject to Section 936
- ◆ Outdoor Pond Subject to Section 934
- ◆ Place of Public Assembly (large) Subject to Section 937
- ◆ Planned Unit Development Subject to Section 938
- ◆ Site Condominium Subject to Section 944
- ◆ Subdivision Subject to Section 945

Dimensional Standards – R-1

Minimum Lot Area– 15,000 square feet where served with public water and public sewer; 1 acre where these utilities are not available.

Minimum Lot Width – 100 feet when served with public water and public sewer; 120 feet when water and sewer are not available.

Minimum Setbacks (Non- Critical Dune Area)

Front: 30 feet.

Side: 10 feet.

Rear: 50 feet.

Waterfront Setback: 50 feet.

All waterfront Setbacks are subject to Section 356.

Minimum Setbacks (Critical Dune Area)

Setbacks for Waterfront Lots in the Critical Dune Area:

Front: 50 feet, subject to Section 356.

Rear: 20 feet, or the average Rear Yard Setback of the two adjacent Lots but not less than 10 feet, all subject to Section 356.

Side: 10 feet, subject to Section 356.

Setbacks for Non-Waterfront Lots in the Critical Dune Area:

Front: 20 feet, or the average Front Yard Setback of the two adjacent Lots but not less than 10 feet. If the Zoning Administrator determines that there is an unusual circumstance, the matter shall be referred to the Board of Appeals pursuant to Section 603 of the Zoning Act, for determination of the Front Yard Setback. In that event, the standards of Section 356.C shall be considered by the Board of Appeals.

Side: 10 feet.

Rear: 20 feet.

Maximum Height – 35 feet and 2.5 stories.

Minimum Dwelling Size – 900 square feet.

Spring Lake Township Zoning Ordinance Excerpts

Draft Date April 21, 2010/Updated December 20, 2016

Dimensional Standards – R-1

Maximum Lot Coverage – Lots with Frontage on Lake Michigan, Spring Lake, the Grand River, or their bayous, shall be limited to a maximum Lot Coverage of 25%; elsewhere is 30%.

Waterfront Lots – See also General Provisions, Section 356.

Accessory Buildings – See Section 306, General Provisions.

Critical Dune Area – That area designated as critical dune area by the State pursuant to Part 353, Sand Dunes Protection and Management, of the Natural Resources and Environmental Protection Act, Michigan Act 451 of 1994, as amended.

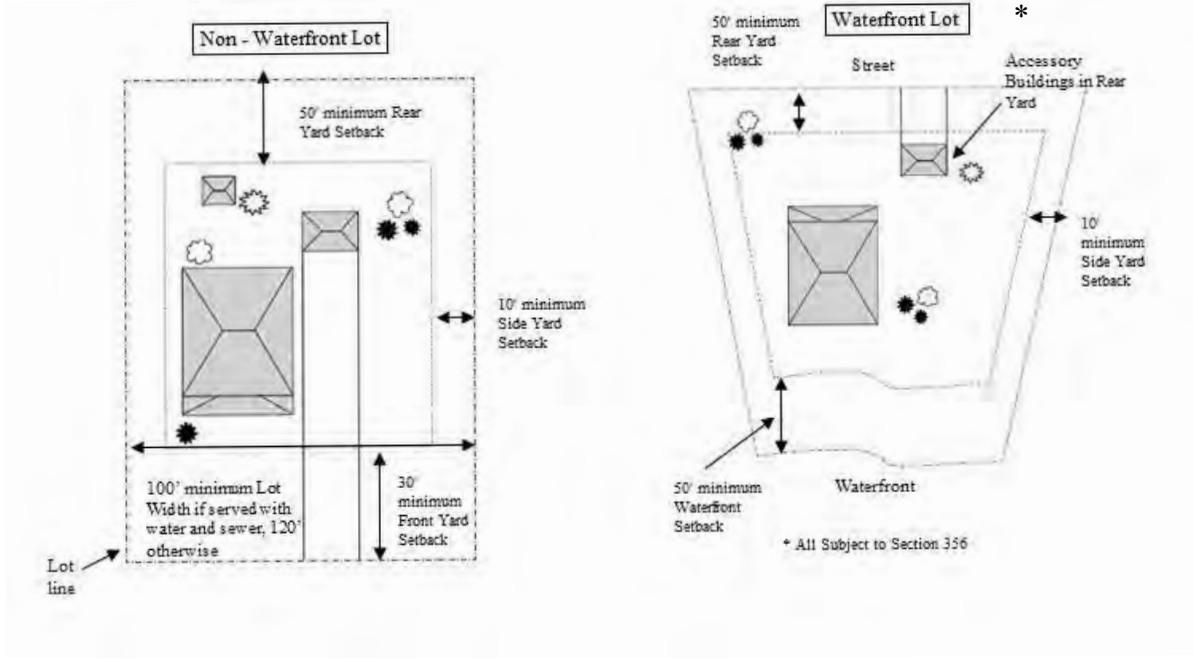
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Spring Lake Township Zoning Ordinance Excerpts

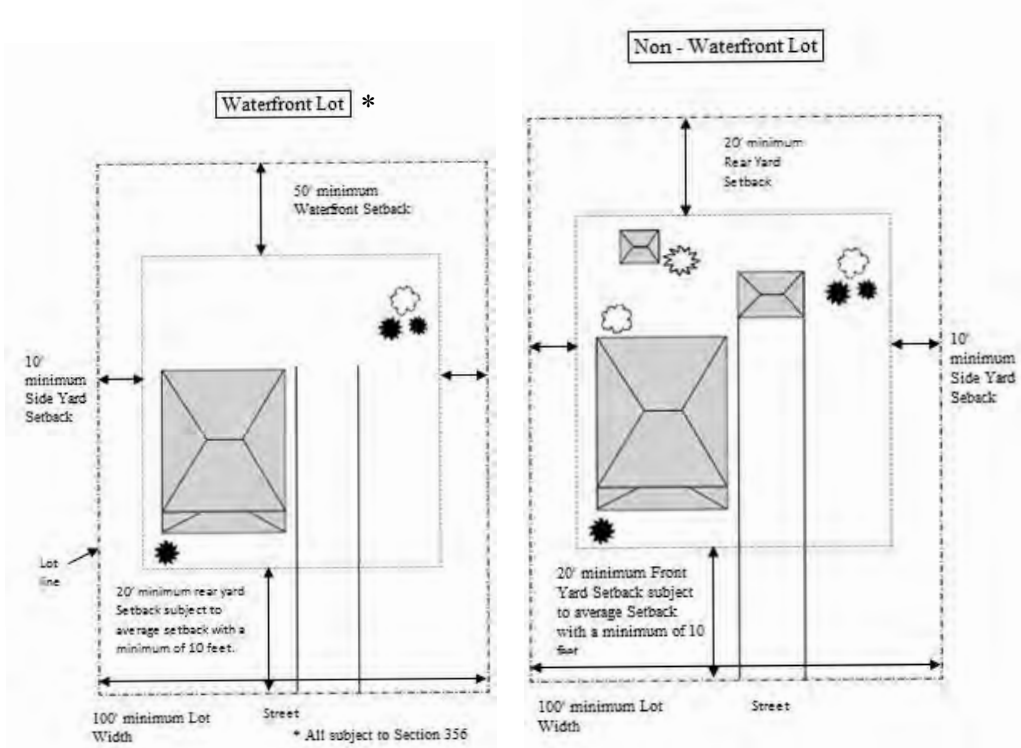
Draft Date April 21, 2010/Updated December 20, 2016

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Non-Critical Dune Area Setback:



Critical Dune Area Setback:



Draft Date
12/13/16

SPRING LAKE TOWNSHIP

ORDINANCE NO. 255

SHORT-TERM RENTAL REGULATIONS ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF SPRING LAKE TOWNSHIP, OTTAWA COUNTY, MICHIGAN, TO ADD A NEW ARTICLE V TO CHAPTER 6, ENTITLED SHORT-TERM RENTAL REGULATIONS, WHICH PROVIDES FOR THE LICENSING AND REGULATION OF CERTAIN RESIDENTIAL RENTAL UNITS; AND TO ESTABLISH AN EFFECTIVE DATE FOR THIS ORDINANCE.

THE TOWNSHIP OF SPRING LAKE, COUNTY OF OTTAWA, AND STATE OF MICHIGAN, ORDAINS:

Section 1. Adoption of Article. Article V of Chapter 6 of the Spring Lake Township Code of Ordinances is added, which Article will be known and cited as the "Short-Term Rental Regulations," and shall read in its entirety as follows.

ARTICLE V. SHORT-TERM RENTAL REGULATIONS

Sec. 6-101. Purpose.

These standards are intended to ensure compatibility with the other permitted uses and the residential character of the neighborhoods in which Rentals are located. All Rentals shall meet the standards contained herein and shall be so located and constructed that the average neighbor, under normal circumstances, will not be aware of its existence.

These standards are also to provide for and protect the welfare of full-time residents and to discourage the purchasing of property for vacation Rental uses.

Sec. 6-102. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

Bedroom means a room which is intended, arranged, and designed to be occupied by one or more persons primarily for sleeping purposes.

Dwelling means a building or portion of a building providing complete, independent living facilities for one or more persons, including permanent provisions for living, eating, cooking, sanitation, and one or more separate Bedrooms for sleeping.

License means a Short-Term Rental License.

Limited Short-Term Rental means the Rental of any Dwelling for any one or two Rental periods of up to 14 days, not to exceed 14 days total in a calendar year.

Maximum Occupancy means the maximum number of allowable Occupants for the Dwelling, as established by section 6-105(k).

Occupant means an individual living in, sleeping in, or otherwise having possession of a space.

Owner means a person holding legal or equitable title to the Premises. An Owner may designate an agent to perform duties or receive notice under this article.

Premises means the property, including any land and the improvements on it, such as a building or other designated structure.

Rent or Rental means to permit, provide for, or offer possession or occupancy of a Dwelling in which the Owner does not reside for a period of time to a person who is not the legal Owner of record, pursuant to a written or unwritten agreement.

Short-Term Rental means the Rental or subletting of any Dwelling for a term of 27 days or less, but the definition does not include the use of campgrounds, hotel rooms, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance-abuse rehabilitation clinic, mental-health facility, or other health-care related clinic.

Sec. 6-103. Rental registration and License required.

Short-Term Rentals shall be registered and Licensed with the Community Development Director prior to commencement of any Rental activity related to them.

Sec. 6-104. Applicability and exceptions.

The following circumstances do not constitute a Rental:

- (a) *Family occupancy.* Any member of a family, as well as that family member's guests, may occupy a Dwelling as long as that family member's family owns the Dwelling. Family occupancy also exempts guest houses or similarly separate Dwellings legally located on the same Premises as the Owner's domicile, when occupied by family guests, exchange students,

visitors, medical caregivers, and child caregivers, without remuneration to the Owner.

- (b) *House sitting.* During the temporary absence of the Owner and the Owner's family, the Owner may permit non-Owner occupancy without remuneration to the Owner.
- (c) *Dwelling sales.* Occupancy of up to 90 days by a prior Owner after the sale of a Dwelling under a Rental agreement following closing is permitted.
- (d) *Estate representative.* Occupancy by a personal representative, trustee, or guardian (including family members) of the estate, with or without remuneration is permitted. The estate shall notify the township of the Owner's name, date of death, and name of the person occupying the Premises.

Sec. 6-105. Performance standards.

All Short-Term and Limited Short-Term Rentals shall be subject to the following performance standards:

- (a) The Owner shall provide off-street parking on paved portions of the Premises and not in the yard to accommodate all Occupants' vehicles, including motor vehicles and trailers.
- (b) Rental of the Dwelling shall be done in a manner that is consistent with the intent of a single family residential neighborhood.
- (c) The Owner shall provide the Occupant and the township with the following information prior to occupancy and post such information in a conspicuous place within the Dwelling:
 - (1) The name of a contact person and a telephone number at which the contact person may be reached any time that the Dwelling is Rented;
 - (2) Notification of the Maximum Occupancy permitted in the Dwelling;
 - (3) Notification and instructions as to the parking locations;
 - (4) A copy of this article, as may be amended from time to time; and

- (5) Notification that an Occupant may be cited or fined by the township, in addition to any other remedies available at law, for violating any provision of this article.
- (d) The Owner's contact person must be available to accept telephone calls at all times that the Dwelling is Rented. The contact person must have a key to the Dwelling and be capable of being physically present at the Dwelling within three hours to address issues, unless arrangements are made for another person to address issues within the same timeframe.
- (e) The Owner shall notify neighbors within 500 feet from the Dwelling in writing that the Dwelling will be Rented and shall provide the contact person's information as well.
- (f) The appearance of the Dwelling shall not conflict with the residential character of the neighborhood. The Dwelling shall be properly maintained per all applicable local and state codes, and kept in good repair so that the use in no way detracts from the general appearance of the neighborhood.
- (g) Occupants shall not encroach on neighboring properties.
- (h) Owners shall provide sufficient waste receptacles substantially screened from view; and the Premises shall be maintained free of debris and unwholesome substances. Garbage must be kept in a closed container and disposed of on a regular weekly schedule.
- (i) Campfires shall be maintained in designated fire pits and comply with applicable fire codes.
- (j) Occupants shall not create a nuisance. For purposes of this subsection, a nuisance includes but is not limited to any of the following:
 - (1) Any activity that violates the township noise regulations found in chapter 14, article II of the township's Code of Ordinances;
 - (2) Any outside noise that is audible at the property line of the Premises occurring between 10:00 p.m. and 7:00 a.m. on weeknights (Sunday, Monday, Tuesday, Wednesday, and Thursday), and between 11:00 p.m. and 7:00 a.m. on weekend nights (Friday and Saturday); and
 - (3) Any activity that violates the township firework regulations found in chapter 16, article IV of the township's Code of Ordinances.
- (k) The Maximum Occupancy for any Dwelling is 12 individuals, subject to any applicable local, state, or federal laws, regulations, or ordinances.

Campers and tents to provide additional occupancy on the Premises are not permitted.

Sec. 6-106. Duration.

A License issued under this article shall be valid for a period of three years from the date of issuance.

- (a) *Renewal.* A request for renewal shall be submitted at least 30 days before the expiration date or within 30 days of a sale or transfer of ownership of the Dwelling. The renewal forms shall be provided by the township. If no information has changed since the previous registration and License approval, the information previously submitted may be incorporated by reference.
- (b) *Noncompliance.* Any change in the use or construction of a Dwelling that results in noncompliance with the standards of any township or State standards, as determined by the Community Development Director, shall void the License.

Sec. 6-107. Rental limitations.

- (a) A Dwelling that is issued a License under this article may be Rented subject to the following limitations.
 - (1) In the agricultural district, a Dwelling may be Rented for any time period, as often as the Owner decides. Accordingly, Short-Term Rentals are permitted in this district.
 - (2) In the rural residential district, a Dwelling may be Rented for any time period, as often as the Owner decides. Accordingly, Short-Term Rentals are permitted in this district.
 - (3) In the R-3 district, a Dwelling may be Rented for any time period, as often as the Owner decides. Accordingly, Short-Term Rentals are permitted in this district.
 - (4) In the R-4 district, a Dwelling may be Rented for any time period, as often as the Owner decides. Accordingly, Short-Term Rentals are permitted in this district.
 - (5) In the mixed use commercial district, a Dwelling may be Rented for any time period, as often as the Owner decides. Accordingly, Short-Term Rentals are permitted in this district.

- (6) In the R-1 district, no Short-Term Rentals are permitted. Only Rental periods of 28 days or more are permitted.
- (7) In the R-2 district, no Short-Term Rentals are permitted. Only Rental periods of 28 days or more are permitted.
- (b) Limited Short-Term Rentals, as defined in section 6-102, may occur in any district.

Sec. 6-108. Suspension or revocation of License.

In addition to any other penalty authorized by law, a License may be suspended or revoked if the Community Development Director finds by competent, material, and substantial evidence, and after written notice of the charges to the Owner and an opportunity to be heard, that the Owner has violated or failed to fulfill the requirements of this article. The written notice of the charges and the notice of hearing shall be personally served on the Owner or served on the Owner by certified mail, restricted delivery, no less than 21 days before the hearing before the Community Development Director.

- (a) Upon a finding by the Community Development Director of a first violation within any 12 month period, the License may be suspended for up to 30 days during which time the Premises shall not be Rented.
- (b) Upon a finding by the Community Development Director of a second violation within any 12 month period, the License shall be suspended for 60 days during which time the Premises shall not be Rented.
- (c) Upon a finding by the Community Development Director of a third violation within any 12 month period, the License shall be revoked and the Owner shall not again be issued a License for a period of 24 months, during which time the Premises shall not be Rented. Appeal from denial or suspension or revocation of a License is allowed, as provided in section 6-109.

Sec. 6-109. Appeal.

Any Owner whose application was denied or whose License was suspended or revoked by the Community Development Director, may, within 10 days following such decision, appeal to the township board. The township board shall determine whether to affirm, reverse, or modify the decision of the Community Development Director in accordance with this article.

- (a) *Notice.* At least 14 days prior to the township board meeting to consider the appeal of the Owner, the Community Development Director, shall send, by United States mail, certified, written notice to the Owner of the

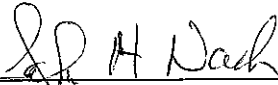
time and place at which the township board will consider the denial, suspension, or revocation, and the Owner shall be provided an opportunity to be heard by the township board prior to its decision being made. All neighbors within 500 feet must also be notified by United States mail the date, time, and location of the township board meeting.

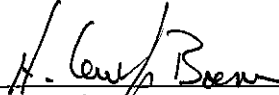
- (b) *The decision.* The decision of the township board shall be final. The clerk of the township board shall notify the Owner, in writing, of the decision of the township board.
- (c) *Right to appeal.* If the township board affirms the decision of the Community Development Director denying an application or suspending or revoking a License, the Owner shall have the right to appeal the township board decision to the circuit court. The decision of the township board shall not be vacated during the pendency of any appeal to circuit court. The Owner has the right to seek a stay in circuit court.

Sec. 6-110. Penalties.

In addition to a potential suspension or revocation of a License pursuant to section 6-108, any person who violates this article, shall also be responsible for a municipal civil infraction, subject to enforcement procedures as set forth in chapter 22 article III, pertaining to municipal civil infractions.

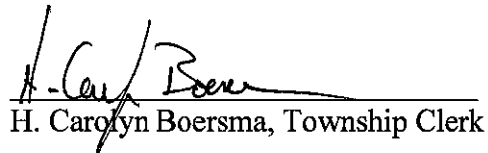
Section 2. Effective Date. This Ordinance was approved and adopted by the Township Board of the Township of Spring Lake, Ottawa County, Michigan, on December 12, 2016. This Ordinance shall be effective 30 days after publication of its contents or a summary of its contents in a local newspaper of general circulation in the Township, pursuant to the provisions of Act No. 191 of the Public Acts of 1939, as amended.


John Nash, Township Supervisor


H. Carolyn Boersma, Township Clerk

CERTIFICATE

I, H. Carolyn Boersma, Clerk for the Township of Spring Lake, Ottawa County, Michigan, certify that the foregoing Short-Term Rental Regulations Ordinance was adopted at a regular meeting of the Township Board held on December 12, 2016. The following members of the Township Board were present at that meeting: Nash, Koster, Boersma, Lindquist, Rabideau, and Terpstra. The following members of the Township Board were absent: Homan. The Ordinance was adopted by the Township Board with members of the Board Nash, Koster, Boersma, Lindquist, Rabideau, and Terpstra voting in favor and no members of the Board voting in opposition. The Ordinance or a summary was published in the *Grand Haven Tribune* on January 7, 2017.


H. Carolyn Boersma, Township Clerk

Draft Date
02/17/2017

ORDINANCE NO. 257

ZONING TEXT AMENDMENT ORDINANCE

**AN ORDINANCE TO AMEND THE SPRING LAKE
TOWNSHIP ZONING ORDINANCE TO PERMIT SHORT-
TERM RENTALS AND LIMITED SHORT-TERM RENTALS
IN THE TOWNSHIP; AND TO PROVIDE FOR THE
EFFECTIVE DATE OF THIS ORDINANCE.**

THE TOWNSHIP OF SPRING LAKE, COUNTY OF OTTAWA, AND STATE OF MICHIGAN, ORDAINS:

Section 1. Limited Short-Term Rental Definition. Section 213 of the Spring Lake Township Zoning Ordinance (the "Zoning Ordinance") shall be amended to include the following definition. (The rest of Section 213 shall remain unchanged.)

Limited Short-Term Rental: The rental of any Dwelling for any one or two rental periods of up to 14 days, not to exceed 14 days total in a calendar year.

Section 2. Short-Term Rental Definition. Section 220 of the Zoning Ordinance shall be amended to include the following. (The rest of Section 220 shall remain unchanged.)

Short-Term Rental: The rental or subletting of any Dwelling for a term of 27 days or less, but the definition does not include the use of campgrounds, hotel rooms, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance-abuse rehabilitation clinic, mental-health facility, or other health-care related clinic.

Section 3. Short-Term Rentals and Limited Short-Term Rentals. Section 348A of the Zoning Ordinance shall be added and shall state in its entirety as follows.

Short-Term Rentals have historically been considered a commercial use, which have not historically been permitted in residential districts. Furthermore, the Township is committed to preserving its neighborhoods' residential character, minimizing potential nuisances, and maintaining its small-town character and scenic beauty. It intends to protect its residents and visitors from the potentially negative or harmful effects that can arise from commercial rentals, including the potential impact on the appearance, tranquility, and standard of living in its prime residential areas.

However, the Township also recognizes the potential benefits of tourism and additional lodging opportunities for visitors, as well as the financial benefit that

Short-Term Rentals can bring to property owners in the Township. Therefore, the Township wishes to obtain a balance between these considerations and allow Short-Term Rentals and Limited Short-Term Rentals as set forth in Article Four of the Zoning Ordinance.

Section 4. Agricultural District, AG. Section 405.B of the Zoning Ordinance shall be amended to include the following permitted uses (the rest of Section 405.B shall remain unchanged).

Limited Short-Term Rental
Short-Term Rental

Section 5. Rural Residential District, RR. Section 406.B of the Zoning Ordinance shall be amended to include the following permitted uses (the rest of Section 406.B shall remain unchanged).

Limited Short-Term Rental
Short-Term Rental

Section 6. Low Density Residential-Resource, R-1. Section 407.B of the Zoning Ordinance shall be amended to include the following permitted use (the rest of Section 407.B shall remain unchanged).

Limited Short-Term Rental

Section 7. Medium Density Residential-Suburban, R-2. Section 408.B of the Zoning Ordinance shall be amended to include the following permitted use (the rest of Section 408.B shall remain unchanged).

Limited Short-Term Rental

Section 8. Medium Density Residential-Cottage, R-3. Section 409.B of the Zoning Ordinance shall be amended to include the following permitted uses (the rest of Section 409.B shall remain unchanged).

Limited Short-Term Rental
Short-Term Rental

Section 9. High Density Residential District, R-4. Section 410.B of the Zoning Ordinance shall be amended to include the following permitted uses (the rest of Section 410.B shall remain unchanged).

Limited Short-Term Rental
Short-Term Rental

Section 10. Mixed Use Commercial District, MU. Section 413.B of the Zoning Ordinance shall be amended to include the following permitted uses (the rest of Section 413.B shall remain unchanged).

Limited Short-Term Rental
Short-Term Rental

Section 11. Effective Date. The foregoing amendment to the Spring Lake Township Zoning Ordinance was approved and adopted by the Township Board of Spring Lake Township, Ottawa County, Michigan on March 27, 2017, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended. This Ordinance shall be effective on April 7, 2017, which date is eight days after publication of the Ordinance as is required by Section 401 of Act 110, as amended, provided that this effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

John H. Nash,
Township Supervisor

H. Carolyn Boersma,
Township Clerk

CERTIFICATE

I, H. Carolyn Boersma, the Clerk for the Township of Spring Lake, Ottawa County, Michigan, certify that the foregoing Spring Lake Township Zoning Text Amendment Ordinance was adopted at a regular meeting of the Township Board held on March 27, 2017. The following members of the Township Board were present at that meeting: John Nash, Carolyn Boersma, Jim Koster, Rick Homan, Ron Lindquist, Jerry Rabideau, and Rachel Terpstra. The following members of the Township Board were absent: None. The Ordinance was adopted by the Township Board with members of the Board Nash, Boersma, Koster, Homan, Lindquist, Rabideau, and Terpstra, voting in favor and members of the Board None, voting in opposition. The Ordinance or a summary of the Ordinance was published in the *Grand Haven Tribune* on March 30, 2017.

H. Carolyn Boersma, Clerk
Spring Lake Township